**אימא הלכה כרבי מאיר – ר"מ is like הלכהSay the**

Overview

רב הונא is of the opinion that מודה בשטר שכתבו א"צ לקיימו. A מגו is not effective against a שטר. The גמרא explained that ר"מ, who maintains that אין נאמנים לפוסלו, despite the fact that the עדים have a הפה שאסר, follows the opinion of ר"ה.

In the previous תוספות ד"ה טעמא it was explained that we should not infer that the רבנן disagree with ר"ה. Rather they also can maintain that א"צ לקיימו. However עדים are different and more powerful than the לוה. When עדים have a הפה שאסר against a שטר they are believed.

רב נחמן challenged ר"ה for saying his rule of א"צ לקיימו as if all agree to it. ר"נ maintains that only ר"מ agrees that א"צ לקיימו; that a מגו is ineffective against a שטר. However the חכמים are of the opinion that צריך לקיימו for a מגו is effective against the שטר.

This challenge of ר"נ to ר"ה seems to contradict that previous תוספות; which distinguishes between the לוה (whose מגו is ineffective against a שטר) and עדים (where a הפה שאסר is effective against a שטר). Our תוספות will resolve this difficulty.

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תוספות asks:

**תימה דאפילו כרבנן נמי מצי סבר ושאני עדים דאלימי לאורועי שטרא -**

**This is incredible;** to assume that רב הונא must agree with ר"מ! **For** ר"ה **can even agree with the רבנן** that נאמנים לפוסלו, even if he maintains א"צ לקיימו **since עדים are different** than the לוה. **For** the עדים **are** (more) **powerful** than the לוה and are capable of **invalidating the שטר.** The לוה is not believed with the מיגו of מזוייף. However the עדים are believed with the הפה שאסר –

**דהכי אית ליה לרבי יוחנן -**

**For this** indeed **is the opinion of ר"י;** everyone maintains מבשאצ"ל and nevertheless the רבנן maintain that נאמנים לפוסלו for אלימי עדים וכו'.[[1]](#footnote-1) The question is why does ר"נ insist that the ruling of מבשאצ"ל follows only the view of ר"מ, when ר"י clearly states that even the רבנן maintain that מבשאצ"ל.[[2]](#footnote-2)

תוספות answers:

**ויש לומר דרב נחמן אין נראה לו לחלק -**

**And one can say; that ר"נ does not see fit to differentiate** between the לוה and the עדים. According to ר"נ if עדים are believed to be פוסל the שטר (with a הפה שאסר), then the לוה is also believed to claim פרעתי (with a מגו דמזוייף); and if the לוה is not believed to claim פרעתי (במגו דמזוייף) then the עדים are not believed to be פוסל the שטר (with a הפה שאסר). Therefore, if we maintain that מבשאצ"ל (a מגו is ineffective for the לוה) then we must maintain that אין נאמנים לפוסלו (that a הפה שאסר is ineffective for the עדים) like ר"מ stated. ר"נ obviously disagrees with ר' יוחנן.

תוספות asks an additional question:

**ואם תאמר ודלמא דרב הונא מיירי במודעא[[3]](#footnote-3) ואמנה[[4]](#footnote-4) -**

**And if you will say; perhaps** **רב הונא,** when he states that מבשאצ"ל, **is discussing** a case of **מודעא or אמנה** (and not the case of פרעתי).[[5]](#footnote-5) It is only when the לוה claims that it was a שטר מודעא or a שטר אמנה that ר"ה maintains that the לוה is not believed with a מגו of מזוייף. However when the לוה claims פרעתי (or when עדים have a הפה שאסר by אנוסים) he (they) will be believed because of the מגו.[[6]](#footnote-6)

תוספות will prove that we can differentiate between the claim of פרעתי and the claims of מודעא or אמנה:

**דאפילו רב נחמן מודה לקמן[[7]](#footnote-7) -**

**For even ר"נ** who maintains that מודה בשטר שכתבו צריך לקיימו in a case of פרעתי, **later agrees** that by a שטר מודעא ואמנה, that even the עדים are not believed. Perhaps ר"ה also meant מודעא ואמנה only, when he said מודה בשטר שכתבו א"צ לקיימו. If that is true, ר"ה does not agree with ר"מ, but rather his ruling is according to the רבנן. It is only by מודעא ואמנה that a מגו is not effective, however by אנוסים (וקטנים וכו') (and also by פרעתי) a מגו is effective.[[8]](#footnote-8)

תוספות answers:

**ויש לומר דרב הונא סתם קאמר ולא מפליג:**

**And one can say; that ר"ה stated** his ruling (of מבשאצ"ל) in **general** terms **and he did not differentiate** between one type of מודה בשטר (like פרעתי) to another type of מודה בשטר (like מודעא ואמנה). Rather he maintains that in all cases, even by פרעתי, the ruling is that א"צ לקיימו. Therefore ר"נ (who maintains that there is no difference between the לוה and עדים) challenged him[[9]](#footnote-9) that he should have said that הלכה כר"מ, because according to the חכמים, who maintain נאמנים לפוסלו, they also maintain that the לוה is נאמן by פרעתי במגו דמזוייף.

Summary

ר"נ disagrees with ר"י and maintains that there is no difference, concerning a מגו against a שטר, between the לוה and the עדים.

The fact that ר"ה did not qualify his statement of מודה בשטר שכתבו אצ"ל, indicates that it applies in all cases; including if the לוה claims פרעתי.

Thinking it over

תוספות asked that perhaps ר"ה made his statement of מבשאצ"ל only concerning מודעא ואמנה; not פרעתי. [[10]](#footnote-10) If that were so, how could the גמרא say that טעמא דר"מ כדרב הונא? The case of אנוסים is not comparable to אמנה ומודעא![[11]](#footnote-11)

1. See previous תוספות ד"ה טעמא. [↑](#footnote-ref-1)
2. This difficulty is eliminated according to the interpretation of רש"י, who maintains that ר"מ ורבנן argue whether צריך לקיימו or not and there is no difference between the לוה and the עדים. [↑](#footnote-ref-2)
3. A מודעא means that the לוה claims that he was forced to agree to the signing of this שטר, even though he did not borrow any money. [↑](#footnote-ref-3)
4. An אמנה means that the לוה claims he trusted the מלוה with this שטר (to keep it for when it will be needed), even though he did not borrow any money. [↑](#footnote-ref-4)
5. See ‘Thinking it over’. [↑](#footnote-ref-5)
6. It is perhaps possible that this question is a continuation of the answer to the previous question. תוספות answered that ר"נ does not distinguish between עדים and the לוה. This indicates that ר"ה may indeed make this distinction that even though the לוה is not believed, nevertheless עדים are believed (as the חכמים maintain). It follows therefore that the statement of מבשאצ"ל is not a blanket statement, that no claim is effective against a שטר, but rather that it is a selective statement; certain claims (פרעתי, etc.) are ineffective against a שטר. If that it the case, then perhaps ר"ה was very selective and the statement of מבשאצ"ל is referring to the claims of אמנה ומודעא exclusively. ר"נ agrees that these claims are ineffective. What is sר"נ' challenge to ר"ה?! See footnote # 9. [↑](#footnote-ref-6)
7. יט,ב. [↑](#footnote-ref-7)
8. See תוספות יט,ב ד"ה אמר ר"נ who explains as follows: In the case of מודעא ואמנה they are not believed, because according to their testimony the שטר was written properly. It was a properly written שטר. A מגו cannot invalidate a properly written שטר. This is known as לא אתי על פה ומרע לשטרא. However by אנוסים, they are claiming that there never was a valid שטר (it was never properly signed by עדים כשרים), therefore the מגו is effective. In the case of פרעתי (it is exactly the opposite); he is agreeing the שטר was valid. There is no attempt at all to invalidate the שטר per se. The לוה is (merely) claiming that the loan was already paid. Therefore (according to ר"נ) the מגו is effective. [↑](#footnote-ref-8)
9. See footnote # 6. According to this answer that ר"ה does not differentiate and maintains that מבשאצ"ל is a universal law; no claims (except for מזוייף) are effective against a שטר, then the answer to the first question of תוספות may change as well. It is not merely (as תוספות originally claimed) that ר"נ does not distinguish between the לוה and the עדים; but rather that (ר"נ deduces from the blanket statement of ר"ה that even) ר"ה himself does not make any distinctions; but always maintains that מבשאצ"ל (even by עדים). See following תוספות ד"ה לעולם footnote # 1. [↑](#footnote-ref-9)
10. See footnote # 5. [↑](#footnote-ref-10)
11. See footnote # 8. [↑](#footnote-ref-11)