

בעלות בגט ושכר הסופר

לשיטת הרמב"ם: אין הבעלות בגט מעכבת

I. The Starting Point: The טור and שולחן ערוך

The starting point is the well-known הלכה at the beginning of ק"כ אבן העזר. The טור (Source 1) writes that every component of the גט — the קלף (parchment), the דיו (ink), and on some views even the קולמוס (quill) — must be הבעל משל. Mechanically, the סופר gives the materials to the בעל as a מתנה before writing, and at minimum the בעל must own the completed גט before נתינה to his wife. The שולחן ערוך (Source 3, ק"כ:א, אבן העזר) codifies the same rule: צריך שיהיה משל הבעל — the גט must belong to the בעל. In the very next breath, the מחבר records that נהגו — the custom is — for the סופר to hand everything over beforehand בשעת הכתיבה (at the time of writing). The רמ"א (Source 3) adds the קולמוס and שאר כלי הכתיבה.

Two things stand out. First, the language is unequivocal: the גט must own the בעל. Second, the qualifier נהגו is unusual. If the rule were truly מעכב בדיעבד — actually invalidating גיטין after the fact when the בעל did not own the materials — the מחבר would be unlikely to write נהגו in the same סעיף. That tension between צריך and נהגו is exactly what the stolen-גט test case in Part XII will press on.

The conventional reading treats this first סעיף as the foundation and everything else in ק"כ as working out the exceptions. This *chabura* asks whether the רמב"ם actually holds this way — and proposes that he does not. The first סעיף is the product of a specific framework that the רמב"ם rejects. And when the rubber meets the road at the stolen-גט case, the מחבר at least arguably (and quietly) follows the רמב"ם, not the ראשונים he catalogues.

II. The בית יוסף's Catalogue of ראשונים — and What It Does and Does Not Establish

The בית יוסף (Source 2; טור אבן העזר ק"כ:א on) assembles a comprehensive catalogue of הראשונים on ownership of the גט. The catalogue is invaluable. Three observations.

First, the catalogued ראשונים share one assumption: the גט must own the בעל. Their disputes are only about mechanism and timing. Some hold that actual קניין from סופר to בעל is required before writing (רא"ש, סמ"ג, ספר התרומה, ראב"ה, רבינו תם, רבינו פרץ, מרדכי). Others say a תקנה of רבנן ליה אקנוי אקנויי takes care of it — the Rabbis transferred ownership, so no express קניין is needed (ר"ן). A third framework uses שליחות — the סופר writes as the בעל's שליח (רמ"ה). The בית שמואל (ק"כ:א, אבן העזר; Source 4) gives the tightest summary.

Second, the ראשונים's shared derivation from וכתב ונתן is weaker than the uniformity of the structure suggests. The גמרא itself never derives an ownership rule from those words. The בית שמואל at Source 21 calls a proper Talmudic derivation a דרשה גמורה — a דרשה with full formal status. No such דרשה exists for בעלות over the גט. What the ראשונים derive from וכתב ונתן is itself an inference, not a דרשה גמורה.

Third, and most important, the candor of the בית יוסף about the רמב"ם is striking. He writes:

אבל לא מצאתי בדברי הרמב"ם שום גילוי לומר שצריך שיתנו הסופר לבעל בפירוש... וכן נראה מדברי הרמב"ן והר"ן שאין צריך שיתנו בפירוש...

But I did not find in the words of the רמב"ם any indication that the סופר must give it to the בעל in express terms... And so it appears from the words of the רמב"ן and ר"ן that no express giving is required...

The סופר sees the silence of the רמב"ם on conveyance from סופר to בעל, but he does not entertain the possibility that the רמב"ם rejects the ownership requirement itself. He puts the רמב"ם in with the רמב"ן and ר"ן — authorities who do require ownership but do not require an express conveyance. He does not quote a רמב"ם text to ground this conclusion; he defaults to it. That default is exactly what Part IV will contest.

III. The Extension of תורת גיטין: A Direct Pesul in וכתב When a Third Party Pays

Before turning to the רמב"ם, it is worth seeing how far the ownership framework can be pushed. The רמב"ם (Sources 19–20) pushes it to its limit. He rules (Source 19) that if a third party — even the wife's own father — pays the סופר without first being מקנה the money to the בעל, the wife is not divorced:

וכן אם אבי הבעל או אבי האשה פרע שכר הסופר בלא הקנאה להבעל אינה מגורשת

And likewise, if the father of the בעל or the father of the wife paid the fee of the סופר without being מקנה to the בעל, she is not divorced.

His reasoning, set out in the ביאורים (Source 20), is that the בעל must be the one commissioning the writing. If a third party pays the fee of the סופר without first being מקנה the money to the בעל, the בעל is not מכתבו, which means וכתב is not fulfilled, which means the גט is פסול.

The size of this חידוש is hard to overstate. Nothing in the משנה or גמרא ties גט validity to who pays the סופר. The תורת גיטין is building an ownership-and-payment structure — stolen-גט, third-party-payment, fee-attribution rules — on top of a הראשונים foundation that was itself inference from וכתב ונתן.

Parts IX and X will show that two leading פוסקים — דברי מלכיאל and הר צבי — reject this פסק. Before reaching them, the harder questions need to be confronted: does the בעל need to own the גט at all? What does the רמב"ם hold? And how committed is the מהבר in the שולחן ערוך to the view that the בעל must own the גט בשעת כתיבה ונתינה?

IV. Re-Reading the רמב"ם: Ownership Is Not Required

A. The Two Proposals of the ערוך השולחן

The (ר' יחיאל מיכל אפשטיין, אבן העזר ק"כ:כ"ו) expressly notes the silence of the םרמב and asks what to make of it:

אבל הרמב"ם ז"ל לא הזכיר כלל הקנאת הקלף והדיו וגם בריש הלכות גירושין שכתב דברים המעכבים את הגט לא הזכיר כלל שיהא הקלף והדיו משל הבעל...

But the קלף, of blessed memory, did not mention at all the conveyance of the קלף and the דיו. Even at the beginning of גירושין, where he wrote the things that are מעכב (indispensable) in הגט, he did not mention at all that the קלף and the דיו must be ... משל הבעל

He offers two proposals to square the רמב"ם with the mainstream ראשונים. The first: because the סופר is the שליח of the בעל, כמותו, שלוהו של אדם, the materials are “as his own” even without express הקנאה. The problem: no text in the רמב"ם ties the שליחות framework to ownership of the writing materials. The ערוך השולחן is retrofitting a rationale onto the silence of the רמב"ם; he is not locating one in the רמב"ם.

The second proposal: the ownership requirement is הדבר פשוט בעיניו — self-evident to the רמב"ם, so he did not need to state it. This is circular. The silence of the רמב"ם is the very thing to be explained, one cannot explain it by asserting that he took the unstated premise for granted, because the premise is precisely what his silence calls into question. In the משנה תורה, the רמב"ם is methodical about stating fundamental requirements — particularly those that, if violated, render an act פסול. His silence on a גט ownership requirement is not the silence of a codifier taking something for granted. It is the silence of a codifier who does not hold of the putative rule.

B. The Texts of the רמב"ם: Sources 23–33

The case that the רמב"ם rejects the ownership requirement is made most directly by his own language. The relevant texts follow.

Source 23 (הלכות גירושין א:א): The Ten Essentials of גירושין

The גירושין enumerates ten elements of the divorce: that the divorce be by writing, not by another means; that the content be one of separation; that it be written לשמה; that it be given in the presence of witnesses; and so on. Ownership of the גט by the בעל is not on the list. A codifier setting out the essentials of a מצוה does not leave out its foundation — unless he does not hold that foundation.

Source 26 (הלכות גירושין ב:א): The Most Direct Text

The רמב"ם writes:

זה שנאמר בתורה "וכתב לה ספר כריתות ונתן בידה", אחד הכותב בידו או שאמר לאחר לכתוב לה, ואחד הנותן בידו או שאמר לאחר ליתן לה, לא נאמר "וכתב" אלא להודיע שאין מתגרשת אלא בכתב, "ונתן" שלא תקח מעצמה.

That which is said in the תורה, 'And he shall write her a ספר כריתות and give it in her hand' — whether he writes it in his hand or tells another to write, whether he gives it in his hand or tells another to give it to her — 'וכתב' was said only to teach that she is not divorced except by writing; 'ונתן' [means] that she should not take it of herself.

This text is decisive. The רמב"ם says, in so many words, that the two דרשות from וכתב ונתן are לא נאמר. That is the whole of what the verse teaches. The רמב"ם is not parsing out ownership as a *third* lesson of the verse alongside these two — he is saying these two *are* the verse's only lessons. If he held that וכתב ונתן additionally imposed an ownership requirement, this was the place to say it.

The משנת יעקב (Source 35) draws the inference with exactly this directness:

ואילו היה ס"ל כשיטת הראשונים הנז' הרי נלמד מ"וכתב" ומ"ונתן" שהבעל צריך ליתן שכר כתיבת הגט והוא צריך לתת לאשה את נייר הגט משלו... ואילו ברמב"ם כתב דמה שנאמר "וכתב" בא לומר שלא יגרש אלא בכתב ומה שנאמר "ונתן" בא לומר שלא תקח מעצמה הרי מפורש בדבריו שלא לומדים דינים אחרים מהא דכתיב "ונתן".

Had [the רמב"ם] held like the cited ראשונים, we would learn from 'וכתב' and 'ונתן' that the בעל must give the fee of the סופר and that he must give the wife the paper of הגט ... But in the רמב"ם, he wrote that 'וכתב' comes to say that one does not divorce except by writing, and 'ונתן' comes to say that she should not take it of herself — he thus explicitly says that one does not learn other laws from what is written ונתן.

Source 27 (הלכות גירושין ב:ד): The Wife Pays the Fee of the סופר

The רמב"ם writes, without elaboration:

והאשה נותנת שכר הסופר בכל מקום

And the wife gives the fee of the סופר in every case.

Two points. First, the רמב"ם does not mention the תקנה of אשה רבנן שדיוה; he states the rule as a flat norm. Second, unlike every other ראשון, the רמב"ם does not suggest that the wife's payment is routed through קניין to the בעל — not by דין, not by any other mechanism. If the payment had to become the בעל's in some sense, that is the kind of thing the רמב"ם would say plainly. He does not say it.

Sources 29, 30, 31 (הלכות גירושין ג:ט"ו, ד:ב, ד:ה): The Wife Writes Her Own Issurei Hana'ah; גט Carved on Her Own Tablet

Source 29 (הלכות גירושין ג:ט"ו): the codifies רמב"ם את הגט, including the wife herself may write her own גט. No caveat that she must then be מקנה the גט to the בעל — גיטה.

Source 30 (הלכות גירושין ד:ב): על הכל כותבים את הגט, אפילו על איסורי הנאה. A גט may be written on materials forbidden for personal enjoyment. The רמב"ם offers no hint that the בעל must acquire such materials first — and he couldn't, because איסורי הנאה are halachically valueless and unownable.

Source 31 (הלכות גירושין ד:ה): when the גט is carved on the wife's own tablet and the tablet emerges from under her hand, she is מגורשת. The reasoning of the רמב"ם: שאין קיום הגט, שהאשה עצמה כותבת גיטה, מאורשת. He does not say the גט works because she is — and knows how to be — מקנה the tablet to the בעל. His reason is the sufficiency of the חותמים: the witnesses give the גט force. That the בעל never owned the tablet is not flagged as a problem requiring a תקנה, because on the framework of the רמב"ם it never was one.

Source 32 (הלכות גירושין ה:א): The גט Must Reach Her, Not Be Transferred in Ownership to Her

The רמב"ם writes:

זה שנאמר בתורה "ונתן בידה", אין ענין הכתוב שיגיע הגט לידה, אלא שיגיע הגט לה... ומשיגיע גט לרשותה, נתגרשה.

That which is said in the תורה, ונתן בידה — the meaning of the verse is not that הגט reach her hand, but that הגט reach her... and from when הגט reaches her, she is divorced.

The operative verbs are הגיע and יגיע — physical arrival. The רמב"ם does not say “she acquires the גט,” does not say “he is מקנה it to her,” and does not invoke any ownership-transfer from בעל to wife. If ownership transfer to the wife is not required — if mere physical arrival suffices — then ownership by the בעל is almost certainly not required either. If the בעל had to be מקנה the גט to the wife, he would first need to own it. But if נתינה is about arrival, the antecedent falls out.

Source 50 (גישין כ. on הרב סולובייצ'יק, שיעורי הרב) works out the point with care. He frames it as a חקירה: is the rule that the paper must be the בעל's, or only that the paper must not be the wife's? If the former, the בעל must own the גט so he can be מקנה it to her. If the latter, any paper that is not the wife's — the סופר's, a third party's, the בעל's — will serve, so long as the נתינה is to the wife.

ויש טעם להעדיפה לומר שהקפידא הוא רק שלא יהיה הנזיר של האשה משום שאז ליכא נתינה, דכיון שיש להאשה זכות לתבוע את הגט, לכך אין נתינת הבעל נקראת נתינה...

And there is reason to prefer saying that the strictness is only that the paper not be the wife's, because if it were, there would be no נתינה: since the wife has the right to claim הגט, the נתינה is not called a נתינה...

's reading aligns with the רמב"ם. The rule that emerges from at רב חסדא is not that the paper must belong to the בעל; it is that the paper must *not* belong to the wife. On the framework of the רמב"ם, that is the only rule the סוגיא produces.

Source 33 (הלכות גירושין כ"ד): "The Paper Is Mine"

The רמב"ם writes that if the בעל says שלי גט זה והנייר שלי — “here is your גט, but the paper is mine” — the wife is not divorced. His reason:

שאין זה כריתות

Because this is not כריתות.

Notice what the רמב"ם does not say. He does not say שאין זה ונתן; he does not point to a פסול in the giving; he does not ground the rule in any ownership-of-the-גט requirement. His reason is that the transaction is not a כריתות — not a severing — because the בעל has retained a claim to the paper itself. That is a reason about the nature of כריתות, not about נתינה or ownership.

The שבט יששכר (Source 36) makes the same point forcefully:

ולפי הרמב"ם הנ"ל דס"ל שאין דין ונתן משלו אלא רק ונתן... ולפי גמ' זו אה"נ שא"צ להיות הגט משלו אלא מספיק שנותן לה גט.

And according to the aforementioned רמב"ם, who holds that there is no rule of 'ונתן' משלו but only 'ונתן'... and according to this גמרא, indeed, need not be his; rather it suffices that he gives her גט.

C. The מעשה רקח: The תורה Knows How to Say “Yours” When It Wants To

writing in the 1740s, saw the problem clearly and built a textual case against the ownership requirement straight out of the תורה's own words. He observes that the רמב"ם nowhere says the wife must be מקנה her tablet to the בעל before the גט is written on it, and that the general silence of the רמב"ם on ownership is decisive. He writes (הלכות גירושין ד: on מעשה רקח; Source 34):

פוק חזי מאי עמא דבר דאפילו במצות לולב דקפיד קרא ולקחתם לכם משלכם לא נמצא מי שיתן לחבירו הלולב ויאמר לו בפ"י הרי הוא לך במתנה וכן במצות ציצית וכיוצא וכיון שכן מה נשתנה גט מכל הני ואדרבה בגט לא בא מבואר בפסוק שיהא שלו כמו שאר מצות דכתיב בהו לכם ואפ"ה לא נהגו לומר כן בפ"י

Go and see what the people do! For even in the מצוה of לולב, where the verse is insistent — ולקחתם לכם משלכם, take for yourselves, of your own — you do not find a person who gives his fellow the לולב saying explicitly, “It is yours as a מתנה.” And likewise in the מצוה of ציצית and the like. If so, how is גט different from all these? And on the contrary: in גט it is not explicit in the verse that it must be his, as in the other מצוות where לכם is written; and even in those they did not customarily say so explicitly.

The argument of the מעשה רקח is textual. The תורה knows how to impose an ownership requirement. For לולב, it writes לכם. For ציצית, it writes לכם. For גירושין, it writes ונתן וכתב — no לכם, no משלו, no

grammatical marker of ownership. The ownership requirement that the ראשונים pull out of ונתן is pulled in from somewhere else; it is not in the פסוק.

The force of the argument is compounded by a further point: even in the מצוות where the תורה explicitly requires ownership, ordinary people do not formally transfer the item before fulfilling the מצוה, and their performances are not invalidated. If common practice in ציצית and לולב (where the תורה actually does require ownership) is accepted without express conveyance, then קל וחומר a formal קניין to the בעל cannot be demanded in גירושין, where the תורה does not require ownership at all.

D. Contemporary Authorities: שבט יששכר and משנת יעקב

Two more recent authorities read the רמב"ם the same way and draw out its implications. The משנת יעקב (Source 35), quoted above, locates the proof in the contrast between Source 26 and the mainstream derivation of the other ראשונים. If the רמב"ם agreed with the majority, one would derive from וכתב that the בעל must pay the סופר and from ונתן that he must give her the paper משלו. But the רמב"ם derives only the form-of-writing rule from וכתב and only the not-taking-of-herself rule from ונתן. The bottom line of the משנת יעקב:

ופשטות הדברים שס"ל שמעיקר הדין אין צריך כלל שהננייר יהיה משל הבעל ושהוא יתן את שכר הסופר

And the plain sense of his words is that he holds that as a matter of basic law, it is not required at all that the paper be משל הבעל or that he give the fee of the סופר.

The שבט יששכר (Source 36) deepens the structural point by re-reading the question of חמא בר רמי about the carved-tablet case. On the framework of the רמב"ם, רמי בר חמא is not asking whether the wife knows how to be מקנה the tablet to the בעל; he is asking whether the בעל commissioned the writing when the tablet was already hers — a concern about מכתיבו, not about ownership. The answer of the גמרא — from האשה כותבת את גיטה — proves that the wife's pre-existing control over the materials is not an obstacle to a valid גט being written at the command of the בעל and given to her. And the רמב"ם does not suggest the tablet must be given back to the בעל via a קניין.

V. הלכות גיטין Dinim, חושן משפט Payment Rules Are בבא בתרא קס"ז. — קס"ח.

A. The משנה (Source 37, בבא בתרא י:ג)

The משנה at קס"ז reads:

(ג) כותבין גט לאיש אף על פי שאין אשתו עמו, והשובר לאשה אף על פי שאין בעלה עמה, ובלבד שיהא מכירן, והבעל נותן שקר. כותבין שטר ללנה אף על פי שאין מלנה עמו, ואין כותבין למלנה, עד שיהא לנה עמו, והלנה נותן שקר. כותבין שטר למוכר אף על פי שאין לוקח עמו. ואין כותבין ללוקח, עד שיהא מוכר עמו, והלוקח נותן שקר.

One may write גט for a husband even though his wife is not with him, and a שובר (receipt) for a wife even though her husband is not with her, provided [the scribe] recognizes them — and the husband gives the fee. One may write a loan document

for a borrower even though the lender is not with him, but one does not write for the lender until the borrower is with him — and the borrower gives the fee. One may write a sale document for a seller even though the purchaser is not with him, but one does not write for the purchaser until the seller is with him — and the purchaser gives the fee.

Two points stand out. First, the משנה is about who owes the סופר for four kinds of documents: גט, שטר חוב, שטר מכירה, שטר חוב, שובר. Second, the rule is stated as a default payment allocation, not as a condition of document validity. Context and tone both place the rule in monetary law, not in document-validity law.

B. The גמרא (Sources 38–39, בבא בתרא קס"ח.)

The גמרא on בבא בתרא קס"ח addresses the rule of the משנה:

והבעל נותן שכר וכו'. מאי טעמא דאמר קרא {דברים כ"ד:א} וכתב ונתן והאידנא דלא עבדינן הכי שדייהו רבנן אאשה כי היכי דלא לשקמה.

"And the husband gives the fee," etc. What is the reason? As the verse says (דברים כ"ד:א) But nowadays, when we do not act this way, the Rabbis threw [the fee] onto the wife, so that [the סופר] will not delay [הגט].

Three features of this סוגיא are crucial.

First, the גמרא gives a reason — וכתב ונתן — but it is far from clear that this is a real גמורה, in the sense of the בית שמואל (Source 21). The גמרא's use of וכתב ונתן is best read as rationale: because the verse imposes the writing and giving on the בעל, it follows that he is the one who ordered the work, and therefore he is the one who owes the fee. We will see this borne out in the נמוקי יוסף below.

Second — and this is decisive — the גמרא itself accepts a תקנה (אשה רבנן אאשה) that shifts the payment rule to the wife. A דרשה גמורה from a verse is not so easily avoided. The fact that the גמרא accepts the shift without question tends to suggest that the original rule was a rationale from the verse, not a formal דרשה.

Third, the shift itself is unclear. It may mean only that where the סופר is holding the גט pending payment, the wife's payment discharges the debt (a narrow reading, consistent with the beneficiary of the נמוקי יוסף rationale below). Or it may mean a blanket default-payment rule was preserved, so that סופרים would continue writing גיטין commissioned by husbands knowing someone was on the hook. Either way, the גמרא never connects the payment question to the כשרות of the גט. The סוגיא is silent on ownership of the גט, on whether payment affects ownership, and on whether who pays has any bearing at all on וכתב in the sense the תורת גיטין urges.

C. The Commissioning, Benefit, and No Defect in Nesinah

The רי"ף (Source 39) records the גמרא as הלכה without elaboration. The real elaboration comes from the נמוקי יוסף, and his full discussion (Sources 40–41) has to be taken as a whole — not just his מסקנא. What is striking about the נמוקי יוסף throughout is that, even as he is working through a סוגיא that ties payment to ונתן וכתב, he raises no concern about ownership of the גט, no concern about who pays affecting the ownership of the בעל, and no concern about any defect in נתינה when the wife pays. The entire discussion is about *commissioning* and *benefit* — not about ownership metaphysics.

His first comment (Source 40):

והבעל נותן שכר. הסופר שהרי זכותו הוא ורצון נפשו:

“And the husband gives the fee” — [that is, the fee of] the סופר, because it [הגט] is his right/benefit (zechuso) and the desire of his soul.

Notice the framing. The נמוקי יוסף grounds the duty of the בעל to pay in נפשו — the גט is in his interest, it is what he wants. This is a סברא about who has the power to initiate, and who benefits from, the transaction; it’s not a rule about ownership. The בעל pays because the writing is *for him*.

His second comment (Source 41), reads the verse in the same vein:

וכתב ונתן. משמע שהבעל הנותנו הוא מכתבו שפורע שכרו:

it implies that the בעל who gives it is the one who commissions the writing, [and] who pays its fee.

This is the הוה אמינא that the תורת גיטין leans on. Read in isolation, one could hear “he commissions and pays” as two separate conditions, either of which, if missing, would undo וכתב. But the נמוקי יוסף continues — and the continuation dissolves that reading:

והשתא שהאשה נותנת השכר. כי היכי דלא נשהייה. ליתן לה גט בשביל שכר הסופר ובין כך תתעגן. והא דכתיב וכתב ונתן לא קשיא דצוואת כתיבה קאמר.

“And now that the wife gives the fee” — so that [the סופר] will not delay giving her on account of the fee of the סופר, and she become an עגונה in the meantime. And what is written “וכתב ונתן” is not difficult, because [the verse] speaks of the commissioning of the writing.

Three things about the full discussion of the נמוקי יוסף matter here.

First, his מסקנא is explicit: ציווי הכתיבה וכתב ונתן speaks to commissioning. It does not impose a payment rule at all. Payment is a consequence of commissioning (whoever commissions, owes), not an independent תורה-level condition.

Second, the נמוקי יוסף's explanation of the תקנה is instrumentalist: the wife pays דלא לשהייה — so that the סופר should not delay the גט and leave her an עגונה. This is a rationale about keeping the process moving, not a rationale about transferring ownership of money to the בעל.

Third, and most important: across the entire בבא בתרא discussion, the נמוקי יוסף raises no difficulty about *ownership* of the גט, no difficulty about *payment* corrupting anything, and no difficulty about a defect in נתינה. These issues — which the תורת גיטין and the mainstream ראשונים treat as central — simply never surface. The נמוקי יוסף is reading the משנה and גמרא the way the רמב"ם codifies them: as a דיני ממונות question about who owes the סופר, nothing more.

The הר צבי (Source 54) works through all of this with exquisite care, showing that the הוה אמינא of the נמוקי יוסף (that implies the בעל must pay) is explicitly rejected in the מסקנא (that speaks only of ציווי). The תורת גיטין builds his entire structure on a הוה אמינא that was disavowed by the very author he cites.

D. The Timing and Benefit, Not Ownership: רבינו ירוחם, מאירי, רבינו גרשום

The רבינו ירוחם (Source 44), רבינו גרשום (Source 43), and מאירי (Source 42) all frame the תקנה as a timing-and-benefit problem. The בעל, having commissioned the גט, has little incentive to rush the payment of the סופר, because delay of the גט is delay of his כתובה obligation to the wife. So the Rabbis moved the payment duty to the party with the stronger incentive in prompt delivery — the wife. This is a practical incentive adjustment, not an ownership reassignment.

on רבינו גרשום puts it this way:

דבעל מאחר שנכתב הגט אינו חושש אם מגיע לידה כל כך מהרה בשביל הכתובה שצריך לפרוע לה הלכך שדוהו רבנן שכר הסופר על האשה דהיא תתן

Because the בעל, once the הגט is written, does not care if it reaches her quickly, on account of the כתובה he must pay her. Therefore the Rabbis shifted the fee of the סופר onto the wife, that she give it.

On this framing, the wife pays because she is the party with the urgent interest. The whole structure is a חושן משפט accommodation — an allocation of who bears the burden of the bill of the סופר. It tells us nothing about ownership of the גט.

E. The Decisive Structural Point (Source 45): Where the רמב"ם Places the Rule

If the classical ownership-payment framework is correct, then the rule that the בעל pays the סופר is a condition of גירושין and belongs in הלכות גירושין. If it is a monetary-law accommodation, it belongs in חושן משפט. Where does the רמב"ם put it?

The רמב"ם codifies the entire משנה of בבא בתרא קס"ז. (Source 45) — a חושן משפט placement. The רמב"ם treats the fee of the סופר as a חושן משפט question, not a הלכות גיטין question. The parties are the סופר and the person who ordered the work; the subject matter is a commercial

obligation; the הלכה belongs with the דיני ממונות that govern commissions and debts. It does not belong, in the system of the רמב"ם, with the rules that make or break a גט.

VI. The Relationship Is a Debt, Not an Ownership Problem

A. The Question

If, as Part V has shown, payment of the סופר is a משפט matter, the next question is what the halachic classification of the בעל-סופר relationship actually is. Is the סופר a שכיר (hired worker)? A קבלן (contractor)? A מוכר (seller)? Or does the commissioner's obligation flow through דיני דגרמי (indirect causation of loss)? The classification matters for בל תלין, for אומן קונה בשבח כלי, and for who bears the risk of loss on unclaimed work-product. It is contested.

What emerges from the classical and more contemporary פוסקים — however the relationship is classified — is that the debt runs between the סופר and the בעל (the party who commissioned the writing), and a third party who pays the סופר is paying the debt of the בעל. The customer does not change. That is the key point for our purposes: it is the סברא that undermines the גיטין's תורת גיטין. Nothing more exotic is needed.

B. The (מהר"א ששון, סימן קי"ט) תורת אמת Case: Almost Exactly Our Case

The תורת אמת of אהרן ששון (1550–1629), סימן קי"ט, is almost exactly our case — a כתובה rather than a גט. The סופר commissioned a סופר to write him a כתובה; the סופר wrote it on his own קלף, had it witnessed, and held it in his possession awaiting payment; ראובן refused to pay. The question: does בל תלין violate ראובן?

The analysis of the מהר"א ששון turns on classification. He initially considered that the סופר, having performed work on the commission of ראובן, might be a קבלן subject to בל תלין. He ultimately concludes otherwise. When the סופר works with his own materials — his own קלף, דיו, and labor — the relationship is a מכר (sale), not a hiring. The סופר is essentially a seller producing a finished product. The refusal of ראובן creates a חוב (debt), analogous to a הלוואה. בל תלין does not apply, because there is no wage relationship.

The parallel to our case is direct. The מהר"א ששון's כתובה scenario and the גט's תורת גיטין scenario share the same essential structure: a בעל (the commissioner) engages a סופר who writes on his own materials. The question of who owns the document — or what happens when someone else pays — is not an ownership question at all. It is a חוב-payment question. The סופר sells; the commissioner buys; and non-payment creates a debt (the third-party payment should discharge the debt). That is how the מהר"א ששון handles the כתובה case. And a כתובה is close enough to a גט that the same analysis should carry over directly.

C. The (דאנושבסקי, חושן משפט סימן ו) as Quoted by the חשוך חמד

Rav Yitzchak Zilberstein, in his חשוך חמד נדה ס"ה, addresses a closely parallel modern case: a dentist orders a dental crown; the patient, for whom the crown was made, never picks it up. Who owns

the crown? Is the technician a מוכר, a שכיר, or a שומר שכר? The case is parallel to the בעל-סופר case because the technician performed commissioned work with his own materials, and a third party (the patient) was expected to take delivery.

The נתיבות, תורת אמת סימן קי"ט מהר"א ששון, שולחן ערוך חושן משפט של"ג:ה works through חשוךי חמד (who, it bears noting, is the same author as the מליסא לורברבוים), and the באר משה (תורת גיטין — ר' יעקב לורברבוים מליסא). His key passage:

הפוסקים נחלקו בשאלה זו, כי המהר"א ששון (תורת אמת סימן קי"ט והובא בקצות החשן בס"ל של"ג סק"ג) כתב שכאשר המזמין מזמין כתובה מהסופר, והסופר כותב על הקלף שלו, אין דינו של הסופר כפועל, אלא כמוכר. לעומת זאת בשו"ע (חו"מ סי' של"ג ס"ח) כתב שהאומר לאומן עשה לי דבר פלוני ואקחנו ממך, חייב האומן להוציאו מרשות המזמין מדין גרמי, והנתיבות כתב (ס"ק ט"ו) שאם אומר בלשון זה "אם תעשה אטלנו ממך במכר ולוקח", דינו כמוכר...

The פוסקים are divided on this question. The cited in תורת אמת סימן קי"ט מהר"א ששון, סופר, s.k. 3) held that when the customer orders a כתובה from the סופר, and the סופר writes it on his own קלף, the status of the סופר is not that of a פועל but of a מוכר. By contrast, the שולחן ערוך (חושן משפט של"ג:ה) says that one who tells a craftsman "make me such-and-such a thing and I will take it from you," the craftsman is required [to have it taken from him by the customer] under the law of דגרי. And the נתיבות wrote (s.k. 15) that if one uses this language, "if you make it, I will take it from you in מכר and לוקח," his status is that of a מוכר...

The באר משה then walks through the refinement of the חשוךי חמד:

ובשו"ת באר משה (דאנושבסקי, חו"מ סימן ו אות ג) כתב בגדר מתי הוא פועל, ומתי הוא מוכר ולוקח, שאם החפץ אינו דוקא למצווה, אלא יכול למכרו לכולם, נמצא שלא עבד רק עבור המצווה, ולכן יש לו דין מוכר, אבל אם החפץ הוא טוב רק עבור המצווה, ואם לא יקחנו לו מה לעשות עמו, נמצא שעבד רק עבור המזמין, ודינו כפועל בשכר, ולכן כתב שגם המזמין כתובה דין הסופר כפועל, והמהר"א ששון לא מיירי אלא לענין בל תלין שדינו כמכר. לאור זאת בעניננו שכתר המוזמן עבור אדם מסוים, אי אפשר להשתמש בו עבור אדם נוסף, לכאורה לכו"ע דינו כפועל, והרופא אין דינו אלא כשליח.

And in שו"ת באר משה (אות ג), he wrote on the definition of when [a craftsman] is a פועל and when he is a מוכר and לוקח: if the object is not specifically for the commissioner — rather, he can sell it to anyone — it turns out that he did not work only for the commissioner, and therefore his status is that of a מוכר. But if the object is good only for the commissioner, such that if [the commissioner] does not take it the [craftsman] has nothing to do with it, it turns out that he worked only for the commissioner, and his status is that of a פועל בשכר. Therefore [the באר משה] wrote that even one who commissions a כתובה — the status of the סופר is that of a פועל; and the מהר"א ששון was speaking only regarding תלין, where his status is like a מוכר. In light of this, in our case — where the crown ordered for a specific person cannot be used for another — ostensibly according to all opinions, his status is that of a פועל, and the dentist is no more than a שליח.

The משה is significant for our purposes. He refines the analysis of the מהר"א ששון by distinguishing two sub-cases: (1) where the craftsman's product has a general market (he could sell it to anyone) — the מוכר מהר"א ששון framing applies; (2) where the product is only useful for the specific commissioner (no general market) — the craftsman is a פועל, not a מוכר. Critically, the משה locates a כתובה in the second sub-case: a כתובה is only useful for the specific *chasan* and *kallah* who commissioned it, so the סופר is a פועל. The same reasoning applies directly to a גט: a גט is only useful for the specific בעל and אשה whose names it bears. No third party can use it. On the framing of the משה, the סופר is a פועל — not a מוכר.

Two things matter about this. First, the refinement of the *מהר"א ששון* clarifies where the logic actually lands for a *גט*: on the *פועל* side, not the *מוכר* side. Second — and this is the critical point — the bottom line is the same either way. Whether the *סופר* is a *מוכר* (*מהר"א ששון*, for *בל תלין* purposes) or a *פועל* (*באר משה*, for general-status purposes), the debt runs between the *בעל* (the commissioner) and the *סופר*. Third-party payment of the *סופר* is payment of the debt of the *בעל*. The *אומן קונה* remains the customer in every classification. The classification matters for *בל תלין* and downstream questions, but not for the question of whose transaction it is.

D. שולחן ערוך חושן משפט של"ג:ח and תשובות הרא"ש

The foundational classical source on the craftsman-customer relationship is תשובות הרא"ש כלל ק"ד. שולחן ערוך חושן משפט של"ג:ה for מקור — סימן ו the ראובן told a craftsman, “Make me such-and-such an item tonight, and I will take it tomorrow.” The craftsman made it. The next day, ראובן told the craftsman, “I have already purchased from another.” The רא"ש ruled:

תשובה על מעשה האומן חייב המצוה לפרוע לאומן כל הפסדו משום דינא דגרמי מידי דהוה אהלכו חמרין ולא מצאו תבואה פועלים ומצאו שדה לחה נותן להם שכרם משלם (ב"מ ע"ו) שעל ידו הפסידו מלאכת היום והכא נמי ע"פ דבורו הפסיד. נאם אשר בן ה"ר יחיאל זצ"ל.

Response: Regarding the craftsman's case, the commissioner is obligated to pay the craftsman for his entire loss under דיני דגרמי, similar to "the donkey-drivers who went and did not find produce, or the laborers who came and found the field wet" (בבא מציעא ע"ו), where [the employer] pays their full wage — because through him they lost the day's work. And here likewise, through his word [the craftsman] suffered loss.

The ר"ש classifies the refusing commissioner's liability as דיני דגרמי: the commissioner caused the craftsman a direct financial loss by retracting after the craftsman had already performed the work. The liability is compensatory, not ownership-based. The ש"ך and סמ"ע infer from the language of the ר"ש that the obligation to dispose of the item generally falls on the craftsman — he sells it himself — and the commissioner pays only the differential loss between the agreed price and the resale value. That strongly implies the commissioner does not acquire the item; his obligation is purely monetary, triggered under the דיני דגרמי framework. The (חושן משפט של"ג:ה) שולחן ערוך codifies exactly this פסק.

Even if the obligation of the בעל to pay the סופר is understood as a דיני דגרמי question — rather than as a חוב from a מכר or a wage from a פועל — the result is the same: a חושן משפט question through and through. The בעל is the customer; the סופר looks to him for payment; if the בעל stiffes the סופר, the סופר has a דיני דגרמי claim against the בעל. Third-party payment simply discharges that claim. This is especially so where all the parties know who commissioned the גט and who needs to give it.

E. The תורת חיים וחסד: Synthesis

in his (חלק ג, נישואין, סימן א) ר', אליעזר בן חיים דוב רוט, addresses a contemporary damages case — destroyed wedding photography and videography equipment — but his analytic framework is directly on point for the בעל-סופר relationship. His contribution is to synthesize the מהר"א ששון, the באר משה, and the רא"ש into a unified treatment of the craftsman-customer relationship.

His scheme, brought to our case:

- (1) If the סופר provides the קלף and דיו and the product has a market, the סופר is a מוכר (מהר"א ששון). The בעל owes the purchase price as a חוב. Third-party payment discharges the חוב. The commercial transaction is complete. The גט is the בעל's to deliver — particularly where the סופר knows the בעל is the one who needs to do נתינה.
- (2) If the product is bespoke and has no market (as a גט inherently is), the סופר is a פועל working for the commissioner (באר משה). The obligation of the בעל is wage plus materials. Third-party payment again discharges the obligation. The גט is the בעל's because he commissioned it.
- (3) If the classification is disputed (as the פוסקים in fact dispute it), no matter: every available classification places the debt between the בעל and the סופר and treats third-party payment as discharge of that debt. The classification matters for בל תלין and אומן קונה בשבא כלי and downstream questions — not for the basic question of whose transaction it is.

F. Consequence: The Premise of the תורת גיטין Faces a Challenge

The consequence for the ownership analysis is sharp. Summarizing:

1. No invocation of שליחות is needed to explain why the work of the סופר counts as the בעל's. The סופר is the customer's worker (or seller, on the frame of the מהר"א ששון) by ordinary חושן משפט law. Whoever pays, the סופר remains the craftsman of the בעל. The commission is what makes him so — not a separately constituted agency relationship.
2. No invocation of דין עבד כנעני is needed to attribute the payment to the בעל. The debt of the בעל is paid when anyone pays it, just as any debt is discharged when anyone tenders the sum owed — particularly where the סופר cannot market the item (the גט) to anyone else and knows who commissioned it.
3. No invocation of הפקר בית דין is needed to “transfer” the wife's זון to the בעל. The זון need not be transferred; the debt is paid in whoever's name the סופר accepts it.

4. No defect arises in כתב from the wife's or a third party's payment — because נמוקי, on the וכתב, and on the מסקנא's יוסף's own textual analysis, speaks to ציווי הכתיבה, not to payment.

The entire structure of תקנות, שליחות, and עבד כנעני constructs is addressing a problem that does not exist once the problem is viewed through a debt-payment frame. And that lets us sidestep the further extension of the תורת גיטין — a direct פסול from third-party payment — entirely.

VII. כ. – רבא, רב חסדא, and the Trouble with Taking “Dilma” Seriously

The סוגיא at כ. seems, on first reading, to support the ownership framework of the majority of הראשונים. On closer reading, it cannot bear the weight.

Source 46 records the exchange:

אמר רב חסדא זכילנא למיפסלינהו לכולי גיטין דעלמא אמר ליה רבא מאי טעמא אילימא משום דקתיב וכתב וקרא איהי קא כתבה ליה ודילמא אקנוי אקנו ליה רבנן. ואלא משום דקתיב ונתן וקרא לא יתיב לה מידי דלמא נתנת גט היא תדע דשלחו מתם כתבו על איסורי הנאה כשר.

רבא said to him: *What is the reason? If you will say [it is] because it is written 'and here she is writing it' — well, perhaps the Rabbis were מקנה [the materials] to him. And if [you will say] because it is written 'and here he does not give her anything [of value] — well, perhaps it is [still called] a giving of גט. Know that it was sent from there: if one wrote on הנאה האסורי, it is כשר.*

On the mainstream הראשונים reading, the challenge of רב חסדא proves ownership of the גט by בעל is essential: without ownership, כתב or נתן would fail. And the answer of רבא — אקנוי אקנו ליה רבנן — is a real commitment to the תקנה. Several features of the סוגיא undermine this reading.

First, the claim of רב חסדא is facially implausible. Taken literally — “I could invalidate every גט in the world” — he is charging every *beis din* and every סופר with systematic incompetence. That is not a claim an אמורא would seriously advance. Against the rhetoric of the סוגיא and parallel סוגיות, the more natural reading is hypothetical: “I could raise an argument that would purport to invalidate every גט.” רב חסדא is posing a theoretical challenge —not announcing a פסק. The רשב"א (Source 49) reads it this way:

וי"ל דרבא לטעמיה דרב חסדא קאמר כלומר אם נפשך לומר שהוא צריך לכתבו והכא היא כותבת אותו וסבירא ליה דאשה לא ידעא לאקנוי אפילו הכי אני אומר דרבנן אקנו ליה זוזי דספרא כיון שתקנו שתהיה האשה כותבת את גיטה

And one may say that רבא is speaking according only to רב's own position — to say: if you wish to maintain that he [בעל] must write it, and here she is writing it, and you hold that a woman does not know how to be מקנה, even so I say that the Rabbis were מקנה to him the סופר's זוזים, since they enacted that the wife write her own גט.

The explanation of the רשב"א is decisive: רבא is not committing to the תקנה as a true rule; he is answering רב חסדא on רב חסדא's own terms. רבא says דילמא אקנוי אקנוי ליה as a “perhaps”; it's meant to dispose of the hypothetical of רב חסדא, not an affirmative doctrine.

Second, the word choice of רבא — דילמא — is itself a marker of tentativeness. It means “perhaps.” The ר"ן (Source 52) and the ריטב"א (Source 51) both feel compelled to argue that דילמא is nevertheless a real answer — to translate it into a substantive commitment — but that already concedes the plain reading against them. The footnote at Source 52 is instructive: a prior סוגיא on the same *daf* uses דילמא in precisely the non-committal sense. There, ר' אחא בר יעקב, *lo hi* דילמא — “perhaps not” — but no one takes up the distinction he proposes thereafter (זה קלי ואנוהו) as a *ta'am* distinguishing ספרי תורה from גיטין. The suggestion is made with דילמא, rejected with דילמא, and left behind. The same structure prevails in the אקנוי אקנוי passage.

Third, and most substantively: if the issue raised by רב חסדא is that the סופר is holding the already-written גט pending payment, a post-writing payment by the wife cannot retroactively corrupt וכתב. The גט was written at the command of the בעל, on the בעל's commission. Later payment by the wife discharges the debt of the בעל to the סופר — it does not retroactively reconstitute who the customer was. Even if the סופר, having accepted payment from the wife, privately believed she was the real customer, that misimpression would have no power to unwrite what was written by his own hand on the behalf of the בעל.

Source 50 (רמי בר חמא) reads the same way. The question (גיטין כ. on הרב סולובייצ'יק, שיעורי הרב) and his interlocutors are asking is not whether the בעל must own the paper, but whether the wife's pre-existing claim to the paper defeats נתינה. If the wife has a תביעה on the paper, then the בעל's giving her the paper is not a נתינה in the relevant sense — because she already has a claim against him for it. That is not an ownership rule about the בעל.

Finally — and this is structurally critical — neither the רי"ף nor the רמב"ם codifies the first clause of the סוגיא, the אקנוי תקנה. Both codify only the second clause: the גט is כשר even when written on איסורי הנאה (רי"ף between Sources 56 and 57; רמב"ם at Source 30). The silence of the רי"ף and רמב"ם on the first clause is best read as a ruling. They do not treat אקנוי אקנוי as a settled הלכה. For the רמב"ם in particular, this is consistent with his entire framework: ownership of the גט is not required, so no תקנה needs to supply it.

VIII. The Wife Writes Her Own גט (Sources 47–48)

The הלכה of האשה כותבת את גיטה (גיטין כ"א.) (Source 48) is often deployed as proof that ownership transfer works both ways — the wife writes, then is מקנה to the בעל, who then gives back to her. On this reading, the גמרא testifies to the wife's קניין-capacity.

But that reading is not compelled by the text. The גמרא's own derivation — שאין קיום הגט אלא בחותמיו — points in a different direction. What makes a גט a גט is not an ownership cascade (wife to בעל to wife) but the witnesses to the גט.

Two plausible readings emerge:

Reading 1: the wife writes, is מקנה to the בעל, and the בעל gives to her. This reading preserves the ownership framework and requires us to credit the wife with קניין-capacity (אשה ידעא לאקנויי) רש"י's explanation at גיטין כ"א. Source 48 reads the גמרא this way:

כותבת את גיטה — ומקניא ליה לבעל ויהיב לה ניהלה.

She writes her גט — and is מקנה it to the בעל, and he gives it to her.

Reading 2: the only rule is that the גט cannot be hers at the moment of נתינה, because one cannot give someone what she already owns. On this reading, the problem sits in ונתן — not in וכתב, and not in any affirmative ownership requirement on the בעל. Her writing is fine. Her receipt of the גט is fine. What would be problematic is נתינה of her own paper back to her, because she cannot receive in נתינה what was already hers. If the writing materials pass out of her possession — or were never hers — the problem does not arise.

The רמב"ם at Source 31 does not offer רש"י's Reading 1. He says only she עצמה כותבת גיטה — she herself writes her גט — and grounds the ruling in אין קיום הגט אלא בחותמיו. There is no gloss that the wife is מקנה to the בעל. The framework of the רמב"ם absorbs Reading 2 naturally: what makes the גט a גט is the הותמים, not the ownership chain.

On Reading 2, the גמרא does not support the ownership requirement at all. It is evidence that a the validity of גט rests on its witnesses, not on its ownership history. That is the ruling of the רמב"ם almost word-for-word.

And even on רש"י's explanation, the גמרא does not prove that the בעל must own the גט; it may be read as requiring only that the wife not own it. On that reading, she must be מקנה it to her husband — so that she no longer owns it — but that is a rule about *her* ownership, not *his*.

IX. דברי מלכיאל: The P'sak of the תורת גיטין Rejected (Source 53)

The מלכיאל (ר' מלכיאל צבי הלוי טננבוים) 1847–1910, Rabbi of Lomza and one of the preeminent פוסקים of late-nineteenth-century Lithuania, (חלק א סימן פ) addresses precisely the problem the תורת קניין set up. A case came before him: the wife's father paid the fee of the סופר without any prior גיטין to the בעל. The תורת גיטין would hold the גט is פסול. The מלכיאל disagrees.

The case is stated at the head of the *teshuvah*:

מכתבו הגיעני ערב החג. וע"ד אשר נזדמן לו למעשה בגט שאבי האשה שילם שכר הגט. וחשש לדברי התורת גיטין סי' ק"כ סק"ו דבכה"ג אינה מגורשת אף דיעבד ומכ"ש בנ"ד שנקל להשיג גט אחר...

Your letter reached me on the eve of the holiday. Regarding the case that came before you — גט in which the wife's father paid the fee of the סופר. You were concerned about the words of the תורת גיטין, סימן ק"כ סעיף קטן ו that in such a case she is not divorced even דיעבד, and all the more so in the present case where it is easy to obtain another גט.

The works through the סוגיא and concludes that on every reasonable reading, payment by a third party is not a defect:

היוצא לנו לנ"ד דלא מיבעיא לשיטת הנ"י ותוס' שבארנו דאין קפידא כלל מה"ת בשכר סופר שיהא של הבעל. א"כ ודאי דשפיר יכול אחר ליתן השכר. כיון שמנהגינו להקנות הקלף והדיו לבעל. וכן לדעת הרשב"א שבארנו דעתו באות ה דבאמת לא הקנו רבנן לבעל כלל משלה. רק שתקנו שהיא תתן עבורו השכר כפורע חובו של חברו. אבל עיקר הכתיבה הוא של בעל. א"כ ודאי ג"כ יכול אחר ליתן עבורו השכר כמובן. אלא אף לדעת הרמב"ן והר"ן ומהר"מ ור"ב ומרדכי וש"פ דס"ל דהקפידה תורה שיהא שכר כתיבה של בעל ורק דאקנו ליה רבנן משל אשה. היינו רק באשה שדעתה לעצמה מצד שהגט נכתב עבורה והקפידה תורה שלא תשתתף כלל בכתיבתו כמש"ל בס"ד. אבל אחר ודאי אינו נותן אדעתיה דנפשיה ורק משלם עבור הבעל כעין מ"ש הרשב"א גבי אשה. והסופר ג"כ ודאי כותב רק בשליחות הבעל ועל דעתו ולזה בודאי שרי.

What emerges for our case: it is not merely that according to the view of the נמוקי סופר's fee be the בעל's — so certainly another may give the fee, given that our custom is to transfer the קלף and די to the בעל. Also according to the רשב"א, whose view we explained in אות ה, the Rabbis did not make a קניין to the בעל from her at all; they only enacted that she give the fee for him, like one who pays another's debt. But the essential writing is of the בעל's — so another may certainly give the fee for him. And even according to the רמב"ן and the ר"ן and the מהר"ם and רבינו ברוך and the מרדכי and the other פוסקים who hold that the תורה is strict that the writing fee be of the בעל, and only the Rabbis were מקנה to him from the wife's [money] — this was only for the wife, whose mindset is on herself because הגט is written for her, and the תורה is strict that she not participate in its writing at all, as we explained above. But another person is certainly not giving of his own mindset; he is only paying for the בעל, like what the רשב"א said about the wife. And the סופר is surely writing only by the שליחות of the בעל's and on his דעת.

The central סברא of the דברי מלכיאל: even conceding the ownership framework for argument's sake, the תקנה that transfers the wife's payment to the בעל addresses a specific problem with *her* payment — she is the one for whom the גט is being written, and the תורה does not want her to participate in the writing on her own account. That problem exists for her payment specifically (but apparently only if she somehow participated in its writing). It does not exist for a third party's payment, because no one imagines the wife's father is becoming the customer of a גט being given to his daughter. The בעל remains מכתבו; the סופר is writing at his command on his commission; a third party's payment is straightforward debt-payment.

יכילנא למיפסלינהו s'רב חסדא of the *teshuvah* offers a parallel argument in a different register: was never a real claim that all גיטין are פסול. It is an exaggerated statement, to make a point. The דברי מלכיאל compares it to the clam of בר יוחאי that ר' שמעון בר יוחאי — a rhetorical flourish, not a ruling: עירובין ס"ה at הדין

וש"ס דגיטין ג"כ מפרש באופן אחר דבאמת קשה מאי קאמר ר"ח יכילנא למיפסל דממ"נ אם נראה לו שפסול כלום משוא פנים יש בדבר. לזה נראה דהוי כהא דאמר רשב"י משום ראב"ע בעירובין ס"ה יכולני לפטור כל

העולם מן הדין דודאי אין כוונתו שיהא כן באמת ויהיה ח"ו עולם הפקר אבל הכוונה שיש מקום ללמד זכות על חטאת ישראל מפני צער השעבוד והגלות ע"ש. וה"נ אמר ר"ח שיש לו חשש ופקפוק בכל הגיטין משום דפשטיה דקרא משמע שהבעל יתן שכר. ואף שבאמת אינו פוסל הגט כמש"ל בכ"ז יותר ראוי לעשות ככתוב בלי שום חשש. וע"ז משני רבא דאקנו ליה רבנן דאין בזה שינוי כלל דהא י"ל דאקנו ליה השכר והיא נותנת בשבילו. אבל מעיקר הדין גם ר"ח מודה דכשר וגם לרבא אין כאן חידוש תקנה כלל רק הא דשדיוה אאשה ורק דלדבריו דר"ח אמר שאפשר שהקנו לו רבנן ולזה לא הוזכר זה בב"ב.

And the גמרא in גיטין is also to be explained another way. For in truth it is difficult: what did רב חסדא mean by "I could invalidate [every גט]" — for from any angle, if it appeared to him that they are פסול, is there any favoritism in the matter? Rather, it seems this is like what ר' אלעזר בן עזריה said in the name of ר' שמעון בר יוחאי "I could exempt the whole world from judgment" — where certainly his intention was not that it actually be so, God forbid, and the world be hefker, but rather the intention was that there is room to argue merit for the sins of Israel on account of the suffering of the subjugation and exile, see there. And similarly here רב חסדא said that he has a concern and a scruple about all גיטין because the plain sense of the verse implies that the בעל should give the fee. And although in truth this does not invalidate הגט as we wrote above, nevertheless it is more fitting to do as it is written without any concern. And to this רבא answered that the Rabbis transferred ownership to him — that there is no change at all in this, for one can say that they transferred the fee to him and she gives it on his behalf. But as a matter of essential law even רב חסדא concedes that it is כשר, and also according to רבא there is no new תקנה here at all, only the [rule] that they placed it on the wife — only according to the words of רב חסדא he said that perhaps the Rabbis transferred [the payment] to him, and therefore this was not mentioned in בבא בתרא.

On this reading, the דברי מלכיאל has decoupled the challenge of רב חסדא from any real ownership rule. רב חסדא was voicing a theoretical point, not a ruling; דינא אקנויי אקנו רבא's was disposing of that hypothetical, not asserting a real תקנה of rabbinic ownership-transfer. Payment remains a דיני ממונות question, whose answer has no bearing on whether the גט is valid. This is the מסקנא דנמוקי יוסף's, rigorously applied.

The Last Paragraph (סעיף כ'): The Debt-Discharge Frame

The final paragraph of the דברי מלכיאל (סעיף כ') is of particular importance here:

עוד נראה שאצלינו שנוהגים שגומרים ביניהם מקודם הבעל והאשה בסכום הכתובה ועל מי יחולו הוצאות הגט א"כ ממילא כשפסקו מקודם שאבי האשה וכדומה קיבל על עצמו ליתן שכר הסופר ה"ז כמקבל לפרוע חוב חבירו ולפטור הבעל מתשלומיו. וגם ד"ל שנגד זה הוסיפו לה בכתובתה בפשרה שביניהם כי אם היה ההוצאה משל בעל היה פוחת בנתינתו לה. ובכה"ג אף התורת גיטין מודה. אך א"צ לזה כמש"ל.

And further, it appears that in our practice, where the husband and wife negotiate beforehand regarding the sum of the כתובה and upon whom the costs of

will fall, automatically, when they agreed beforehand that the wife's father or the like took upon himself to pay the סופר's fee, this is like one who undertakes to pay his friend's debt and to release the husband from his payment obligation. And it is also plausible that in exchange for this, they added to her כתובה settlement in the negotiation between them, for had the expense been borne by the husband, he would have reduced his payment to her. In such a case, even the תורת גיטין would concede. But this [additional argument] is unnecessary, as we wrote above.

Three features of this paragraph require attention.

First, the frame of the דברי מלכיאל is explicitly debt discharge — פרעת חוב. The third party is כמקבל — “like one who undertakes to pay his friend's debt and to release the בעל from his payment obligation.” This is precisely the framework set out by the מהר"א ששון, the חוב בעל-סופר relationship is a commercial חוב; the third party discharges it; the transaction is ordinary משפט חושן. That same author pattern — the חושן נתיבות's own — shows up again here, and the דברי מלכיאל is tacitly applying the נתיבות's own logic against the תורת גיטין conclusion.

Second, the alternative framing of the דברי מלכיאל — that the parties adjusted the כתובה in exchange for the third party's undertaking — presupposes that the fee of the סופר is a pure monetary obligation, tradeable against other financial terms. If the סופר's fee were a condition of גירושין, it could not be traded against the כתובה; it would be a fixed validity requirement. That the דברי מלכיאל is comfortable framing it this way is itself telling.

Third, the דברי מלכיאל notes that “even the תורת גיטין would concede.” Important: this shows him engaging the תורת גיטין on his own ground. Given the contemporary practice of pre-negotiated financial arrangements, even the תורת גיטין's own framework would not condemn third-party payment. The דברי מלכיאל adds that this argument is unnecessary — because his primary analysis (Parts 1–25 of the teshuvah) has already shown that payment does not affect *kashrus* at all.

[One further observation is warranted. The דברי מלכיאל still seems to assume that the רמב"ם requires the בעל to own the גט. But he is not concerned with who pays the סופר. That creates an awkward middle position: if the logic of his treatment of the נמוקי יוסף is correct — if payment is not a condition of גירושין — then the ownership premise of his treatment of the רמב"ם is unsupported. The דברי מלכיאל has essentially decoupled payment from ownership while retaining the ownership assumption as a default. His reasoning, however, seems to push further than his conclusion acknowledges.]

X. הר צבי: The Deeper Reading of the נמוקי יוסף (Source 54)

אבן on הר צבי (1873–1960; Chief Rabbi of Jerusalem) addresses the same question in צבי פסח פרנק. The case: a גט in which relatives of the bride paid the fee of the סופר without any prior

to the wife. Like the דברי מלכאל, the rejects the פסק תורת גיטין — but his path to rejection is different, and in some ways more decisive.

His central move is to parse the נמוקי יוסף with unusual care and show that the תורת גיטין has built a new יסוד on the אמינא of the נמוקי יוסף — words that the יוסף himself rejected in his מסקנא. He writes:

ולזאת היה נראה לומר בביאור דברי הנמו"י, דמעולם לא נתכוין הנמו"י לומר דהאי וכתב לאורויי קא אתי שתשלומי שכר הכתיבה על הבעל, דבאמת תשלומין מאן דכר שמיא, דהכתוב אינו מדבר אלא בסדר כתיבת הגט דבעינן שיהא נעשה ע"י הבעל או ע"י ציווי. אמנם כשאנו באים לדון על התשלומין של שכר הכתיבה אמאן תרמייה, זה הוא מילתא דתליא בסברא, דעל מי שהטילה התורה טורח הכתיבה הוא ניהו דמחייבין ליה לשלם עבור הכתיבה, דהרי נמצא דהסופר קנוי תחתיו ועשה את עבודתו המוטלת עליו, ובדין הוא שיטול שכרו מהבעל, שהשלים לו עבודתו.

And therefore it appeared to me to say, in explaining the words of the נמוקי יוסף: that the נמוקי יוסף never intended to say that the payment of the writing fee falls on the בעל. Because in truth — payment? Who mentioned it? The verse is not speaking except about the order of writing הגט, that we require it be done by the בעל or by his command. However, when we come to adjudicate about payment of the writing fee — on whom shall it fall? — this is a matter that depends on reasoning: that on him whom the תורה has placed the burden of the writing, we obligate him to pay for the writing, because the סופר is, as it were, acquired to him and has done the work imposed on him, and it is right that he take his fee from the בעל, who has had his work completed for him.

He continues in the very next paragraph, making explicit what the נמוקי יוסף meant at the outset:

ולפי ביאור זה נמצא, דהנמו"י גם מעיקרא כשאומר דהבעל נותן שכר הסופר משום דכתיב וכתב, דמשמע שהבעל מכתבו ונותן שכר הסופר, היינו לאו דקרא בתשלומין קא עסיק ואשמעינן תנאי חדש בתנאי כתיבת הגט שיהא הבעל משלם שכר הכתיבה, דהא באמת פשטיה דקרא כשהבעל בעצמו הוא הכותב מיירי. אלא דבאמת עיקר קפידא דקפיד קרא הוא שהכתיבה תהיה נעשית ע"י הבעל, וענין התשלומין ילפינן ממקום אחר, משום דדינא הוא דכל מאן דעביד עבדתיה דחבריה מיבעי ליה לשלומי ליה, אבל לעולם אין זה נוגע להכשרו של גט כלל, רק אם נכתב בשליחותיה של הבעל לא איכפת לן ואינו מעכב אם עשק שכר הסופר, ונהי דעבירה היא בידו, אבל הגט כשר.

And according to this explanation it emerges that the נמוקי יוסף, even at the outset — when he says that the בעל gives the fee of the סופר because it is written וכתב, which implies that the בעל commissions him and pays the fee of the סופר — did not mean that the verse is occupied with the matter of payments and teaches us a new condition in the conditions of writing הגט, that the בעל must pay the writing fee; for in truth the plain sense of the verse refers to a case where the בעל himself is the writer. Rather, in truth, the essential concern of the verse is that the writing be done by the בעל, and the matter of payments we derive from elsewhere — because it is a rule that whoever does his fellow's work must be paid by him, but this never

touches on the kashrus of הגט at all; rather, if it was written by the agency of the בעל, we do not care and it is not invalidating if he withholds the סופר's fee — though he has [committed] a transgression, הגט is כשר.

And then he reconciles the opening of the נמוקי יוסף and his conclusion:

... אלא דלפי מה שקיצר וסתם הנמו"י בתחלה דמהאי קרא דוכתב ידעינן שהבעל נותן שכר, מוסיף לפרש במסקנא דהאידינא כשהאשה נותנת השכר, דהאי וכתב אינו מצריך אלא שיהא הבעל מצוה על הכתיבה. ושני דבורי הנמו"י צדקו יחדיו, יתלכדו ולא יפרדו, דבאמת קרא דוכתב נכתב לגלויי רק שיהא הוא מצוה על הכתיבה ואינו מדבר בענין התשלומין, ומכל מקום ידעינן דהתשלומין עליו רמיא מכיון דהכתיבה רמיא עליו, ורק מדין גזילה הוא שהבעל ישלם שכר זה, ולא נוגע להכשר הגט, ולכן במסקנא האמת נקט, [דכיון] דלא בעינן להכשרו של גט שהוא ישלם אלא רק מטעם דין ממון, על כן עשו תקנה שלא ישלם.

...Rather, because the נמוקי יוסף was brief and summary at the outset — [saying only] that from the verse וכתב we know that the בעל gives the fee — he adds, in explaining his conclusion, that nowadays when the wife gives the fee, this וכתב does not require anything except that the בעל command the writing. And the two statements of the נמוקי יוסף are true together; they conjoin and do not part. For in truth the verse וכתב was written to reveal only that he command the writing, and it does not speak about the matter of payments; nevertheless, we know that the payment rests on him, since the writing rests on him — and it is only by the law of gezeilah [theft] that the בעל pays this fee; and it does not touch on the kashrus of הגט. And therefore in the conclusion he spoke the truth: since it is not required for the kashrus of הגט that he pay — but only as a matter of monetary law — they therefore enacted that he not pay.

And the summary of the הר צבי:

העולה מזה, דמהנמו"י מלבד שאין ראיה דבעינן להכשירו של גט שיהא הבעל נותן שכר הכתיבה, אלא אדרבה מסוף דבריו יש להוכיח להיפוך, דמגילוויי דקרא דוכתב לא ידעינן אלא שיהא נכתב על פי דבור וצווי הבעל, אבל לענין תשלומי שכר הכתיבה לא נחית האי קרא כלל להשמיענו בזה.

What emerges from this: from the נמוקי יוסף, not only is there no proof that we require for the kashrus of הגט that the בעל pay the writing fee; on the contrary, from the end of his words one can prove the opposite — that from what the verse וכתב reveals, we know only that it must be written on the command and order of the בעל, but regarding the payment of the writing fee this verse does not descend at all to teach us anything.

This is a meticulous textual argument. The נמוקי יוסף read the תורת גיטין as supporting a payment-ownership framework. The הר צבי reads the נמוקי יוסף — in his מסקנא — as rejecting that framework. And the הר צבי is right: the מסקנא of נמוקי יוסף says precisely that וכתב speaks to ציווי, not to payment. Throughout, the נמוקי יוסף is working in ציווי and benefit terms, never raising ownership, never raising גירושין defects, never treating payment as a גירושין condition.

The *her* צבי then addresses רב חסדא's *למיפסלינהו*. He has to explain how the רב חסדא seems to ground a פסול in וכתב when the נמוקי יוסף says וכתב speaks only to ציווי. His answer — following תוספות (Source 55) — is that the real issue in the רב חסדא סוגיא is, ונתן, not וכתב: the בעל has given her nothing, because the paper is hers. That is a פסול in נתינה, not in וכתב, and therefore a פסול in ownership specifically — the paper cannot be hers — not in payment.

But for the רמב"ם, who reads ונתן to mean only מעצמה שלא תקח מעצמה, even the paper problem would dissolve. Just like the דברי מליכאל, the *her* צבי assumes in his ruling that the ownership framework still applies in some form — he is issuing a פסק in a real-world context where the צריך's שולחן ערוך's *משל הבעל* holds sway. But the logic of his argument supports the position of the רמב"ם more than the *her* צבי acknowledges: if ציווי speaks only to וכתב, and if the payment question is a pure דיני question, then what remains of the ownership requirement? Perhaps only the narrower rule that the paper cannot be the wife's. But that is a rule the framework of the רמב"ם captures.

XI. גיטין כ"ב on תוספות (Sources 55–56)

As flagged above, גיטין כ"ב: on תוספות (Source 55) addresses the challenge of רב חסדא by relocating it from וכתב to ונתן.

But the move comes at a cost. The plain language of the גמרא ties the first challenge to וכתב (דכתיב) (וכתב והכא איהי קא כתבה ליה). תוספות does not explain why the גמרא uses וכתב language if the real challenge is about ונתן. On that same point, the move of תוספות would mean רבא raises two possibilities *both* centered on ונתן — wrecking the parallelism of his two-part answer, which by the plain terms of the גמרא first responds to a challenge from וכתב and then to one from ונתן, following the progression and words of the פסוק.

Further, תוספות does not explain why the גט becomes שלה when the wife pays after the גט is written and is just sitting with the סופר waiting to be tendered to the בעל — particularly where the משנה and גמרא in *Get Pashut* assume the writing was already commissioned by the בעל. How does payment after the fact retroactively transfer customership to the wife? תוספות does not say.

The (Source 56) summarizes the framing of תוספות. But the summary does not resolve the two structural problems above.

XII. Four Positions in the ראשונים and Poskim

The field can now be summarized with precision.

Position 1: The רמב"ם teaches only that גירושין must be in writing — not in another medium. תוספות teaches only מעצמה שלא תקח מעצמה — that the wife does not take of herself. The בעל need not own the גט at any stage, and payment of the סופר is a משפט question with no bearing on the גירושין process. Source 26 states the דרשות; Sources 27, 29–33 cohere with them; Source 45 confirms the רמב"ם's structural placement of payment rules in הלכות מלוה ולוה. The (Source 34) draws out the textual-comparative proof (וכתב vs. לכם); the משנת יעקב (Source 35) and the שבט יששכר (Source 36) confirm the reading.

Position 2: נמוקי יוסף requires that the בעל be מכתבו — commission the writing — but payment is irrelevant to the גירושין process. Even granting that the בעל should own the גט, the wife's payment does not interfere with his ownership. Practically, the רמב"ם and the נמוקי יוסף converge. The נמוקי יוסף's exegesis of the נמוקי יוסף confirms this reading; and the full discussion of the נמוקי יוסף confirms that he sees no ownership, payment, or נתינה issue across the סוגיא.

Position 3: Majority of ראשונים: The בעל must own the implements of writing the גט at writing time. The payment requirement implies an ownership requirement somehow. And where common practice has the wife paying, תקנות are required to make the payment his: הפקר בית דין הפקר transfers her זוז to the בעל; or perhaps the סופר's conveyance of materials at writing time establishes ownership; or the שלוחות framework resolves ownership at delivery time (רמ"ה).

Position 4: תורת גיטין: Failure of the בעל or wife to pay creates a direct פסול in וכתב. Third-party payment without קניין to the בעל renders the גט invalid. This extends Position 3 by turning payment into a condition of וכתב. Both the דברי מלכאל and the הר צבי reject the extension — and the מהר"א, ששון, the רמב"ם, the באר משה, and the תורת חיים וחסד supply the משפט architecture that supports that rejection: payment is a דיני ממונות matter, not a גירושין matter.

A critical observation: the רמב"ם and the נמוקי יוסף converge on a practical conclusion (payment is irrelevant to גירושין); the majority and the תורת גיטין diverge even on whether payment is a condition of וכתב.

XIII. What Does the מחבר Actually Hold? The Stolen גט as Test Case

The מחבר deserves a return visit. The מחבר at Source 3 writes של הבעל — “it is required that it be of the בעל.” The language of צריך is strong enough to imply a בדיעבד rule. But the מחבר immediately softens with נהגו — the “custom is to...” If the rule really applied בדיעבד, the מחבר would say so expressly rather than collapse immediately into permissive custom-language. The language of the first הלכה in the סימן is ambivalent.

The real test case is the stolen גט. It is the case where, by definition, the בעל cannot own the גט. And here the מחבר is silent.

Source 57 (אבן העזר ק"כב) addresses only a גט written on stolen paper:

גזל נזיר וכתב בו גט ונתנו לה, כשר, אפילו קדם יאוש.

One who stole paper and wrote גט on it and gave it to her — כשר, even before יאוש.

The מחבר rules that such a גט is valid. His reasoning, supplied by the שמואל mentioned in Source 19, runs through שינוי שאינו חוזר — the writing is an irreversible change, and the paper is no longer “paper” in its original sense. But this reasoning presupposes that the issue is ownership of the paper, not ownership of the already-written גט.

The gloss of the רמ"א on Source 57 steps in where the מחבר has not:

הנה: אכל גזל גט, כגון שקטב לו הסופר גט וגזלו ממנו ולא פרע לו, וגרש בו, לא הוי מגרשת (בית יוסף).

But if he stole גט — for example, if the סופר wrote him גט and he stole it from him and did not pay him, and divorced with it — she is not divorced. (בית יוסף)

The רמ"א relies on the בית יוסף for this stricter ruling. But that raises the critical question: if the בית יוסף himself held that a stolen גט invalidates the גירושין, why did he not include that פסק in his own שולחן ערוך? The בית יוסף knew his own mind. He wrote the בית יוסף as a running commentary on the שולחן ערוך, and the שולחן ערוך as a פסק. When he declined to codify the stricter rule in the שולחן ערוך, the declination is plausibly meaningful.

Perhaps a plausible explanation is that the מחבר, when the rubber met the road, followed the רי"ף and the רמב"ם, not the רא"ש. The רי"ף and the רמב"ם apparently do not require ownership of the גט by the בעל. The רא"ש does. In the בית יוסף — a work of commentary and survey — the מחבר could report the position of the רא"ש. In the שולחן ערוך — a work of פסק — when the stolen-גט case presented itself as the true test, the מחבר fell back on the רי"ף and the רמב"ם. Hence the silence in the שולחן ערוך on the stolen-גט case. The רמ"א filled the gap by invoking the commentary of the בית יוסף — but that gloss should not necessarily be taken for the מחבר's own פסק.

The analysis of the customer-craftsman relationship reinforces the point. A who takes a גט from the סופר without paying merely owes a monetary debt. The debt existed from the moment the בעל commissioned the סופר; the lien of the סופר on the גט (שיעבוד) is for the fee, not for the גט as an independent asset, because the גט has no market value. The "theft" of a גט from the סופר is not theft of a marketable object — it is failure to pay a debt. The גט itself, written at the command of the בעל on the בעל's commission, is no less the subject of a valid גירושין process than it would have been had the בעל paid on time.

On this reading, the stolen-גט case collapses into the general payment-is-not-a-condition-of-girushin principle. The framework of the רמב"ם handles it natively: the בעל commissioned the סופר; the גט was written; the גט was given to the wife; she is divorced. That the בעל stiffed the סופר on payment yields a דיני ממון claim by the סופר against the בעל. It does not yield a גירושין defect.

XIV. The משפט הקנין Point: The רמב"ם Does Not Extend Din Eved Kena'ani to Mekher

One way to preserve the mainstream הראשונים framework while preserving the silence of the רמב"ם on ownership would be to argue that the רמב"ם tacitly relies on עבד כנעני: the wife's (or third party's) payment effects קניין to the בעל through the עבד כנעני paradigm, which the רמב"ם does not need to state because it operates invisibly. Given the משפט הקנין's (ר' עובדיה יוסף טולידאנו) explanation of the view of the רמב"ם, this path is unavailable:

אלא דהרמב"ם, אף שהביא דין עבד כנעני לעניין קדושי אשה (פ"ה מאישות הכ"ב), לא הביא בדין עבד כנעני לעניין מכר

But the רמב"ם, although he brought דין עבד כנעני regarding קדושי אשה (הלכות אישות), did not bring דין עבד כנעני regarding מכר (ה:כ"ב).

This fact is significant. The willingness of the רמב"ם to deploy עבד כנעני (where the construct is the paradigm), and his refusal to extend it to מכר, shows he is attentive to where the construct is and is not warranted. He does not use it as a general-purpose patch. And if he does not use it in מכר, he is likely not using it in the בעל-סופר relationship.

The implication is precise. If the רמב"ם does not extend עבד כנעני to מכר, he cannot be tacitly using it to solve the סופר-payment problem either. The silence of the רמב"ם on ownership of the גט is not shorthand for an עבד כנעני mechanism operating quietly in the background. It is a substantive position: ownership of the גט is not required, and no mechanism — שליחות, or דין עבד, or הפקר בית דין, שליחות — needs to be deployed to bridge a gap, because on the reading of the רמב"ם there is no gap.

XV. Summary and Ruling Implications

The main thesis can now be restated compactly. The mainstream הראשונים position — that the בעל must own the גט, at least at the time of נתינה — is an inference from וכתב ונתן that has no corresponding דרשה גמורה. The רמב"ם, reading וכתב ונתן according to the formal דרשה he sets out in Source 26, holds that the phrase teaches only the writing-requirement and the not-taking-of-herself rule. Nothing more. Ownership is not a condition of גירושין.

The payment question is a משפט question. The משנה at בבא בתרא קס"ז (Source 37), codified by the סופרים — not a דרשה גמורה (Source 45), is a catalogue of default-payment rules for סופרים — not a דרשה of פרשה. The reason of the גמרא for the default (וכתב ונתן) is a rationale about commissioning, not a דרשה about ownership; and the גמרא's own acceptance of the תקנה shifting payment to the wife shows that the default is responsive to practice, not a תורה-level rule. The full discussion of the duty of the בעל as נפשו — from his framing of the duty of the בעל as נפשו to his discussion of the duty of the בעל as נפשו — raises no issue about ownership, no issue about payment affecting נתינה, and no defect in the גט under any reading. The הר צבי (Source 54) reads the נמוקי יוסף as conclusively against a payment-ownership framework.

The framework that governs the בעל-סופר relationship is well-established. תשובות הרא"ש, codified at שולחן ערוך חושן משפט של"ג:ה, treats the refusing commissioner's liability as דיני דגרמי. The סופר — treats the סופר as a גט rather than a כתובה — almost exactly our case, a סופר who supplies his own קלף as a מוכר creating a חוב. The באר משה, cited by the חשוקי חמד, refines this: because a סופר (גט א קל וחומר) has no market outside the specific commissioner, the סופר is a פועל, not a מוכר. The תורת חיים וחסד synthesizes: whichever classification applies, the debt runs between commissioner and craftsman, and third-party payment simply discharges the debt. The דברי מלכיאל supplies the contemporary-practice frame: when the parties negotiate the financial arrangements of the גט in advance, the third-party payer is discharging the debt of the בעל as a matter of the parties' own agreement. Even the תורת גיטין would concede in that posture.

The גט that third-party payment invalidates (Sources 19–20) rests on a reading of the נמוקי יוסף that the הר צבי himself rejected in his מסקנא. Both the דברי מלכיאל (Source 53) and the הר צבי (Source 54) have rejected the תורת גיטין. Their reasoning — even while

operating within the ownership framework — supports the stronger conclusion that payment is simply irrelevant to גירושין.

The true פסק of the מחבר perhaps emerges at Source 57 and in the stolen-גט case. He rules כשר on stolen paper. He is silent on the stolen גט. The רמ"א fills the gap with the commentary of the בית יוסף; but the מחבר's own silence is consistent with the רי"ף and רמב"ם's ownership-is-not-required position. When the rubber meets the road on the true test case, the מחבר arguably follows the רי"ף and the רמב"ם.

And the דין עבד משפט הקנין confirms that the ownership rule cannot be smuggled back in through מכר. The רמב"ם does not extend כנעני to עבד כנעני; there is no reason to believe he extends it to the בעל-סופר relationship.

The רמב"ם is not alone in reaching these conclusions, but he reaches them with the greatest clarity. The מסקנא aligns with the רמב"ם even if it does not go quite as far. In contrast, the majority of ראשונים operate within an ownership framework that is never clearly grounded in a Talmudic דרשה and that requires elaborate explanations — שליחות, אקנויי אקנו, הפקר בית דין — to sustain common practice. A simpler framework is available, codified by the רמב"ם in the language of the גמרא: וכתב means write; ונתן means give; ownership is not at issue.

As a practical matter, this reading resolves the problem the דברי מלכיאל and the הר צבי faced (third-party payment of the סופר) without *ex post* accommodations. It resolves the test case the שולחן ערוך faced (the stolen גט) without the gloss of the רמ"א. It tracks what the שולחן ערוך arguably quietly decided — a כשר on stolen paper, silent on the stolen גט — against the stricter gloss of the רמ"א. And it comports with the language of the תורה in the פרשה, which does not say לכם.

The last word belongs to the מעשה רקח (Source 34):

ואדרבה בגט לא בא מבואר בפסוק שיהא שלו כמו שאר מצות דכתיב בהו לכם

And on the contrary: in גט it is not explicit in the verse that it must be his, as in other מצוות where לכם is written.

The רמב"ם read this silence, כפשוטו, for what it is.