

**A** בס"ד

Intro

Today we will learn בע"ה of דף קכ"ד of בבא בתרא. Some of the topics we will learn about include.

מוחזק

The father's assets that were in his possession before he died;

ראוי

The father's assets that only came in to his possession after he died;

אין הבכור נוטל בראוי כבמוחזק

A בכור is entitled to פי שנים, a double portion, only in the assets that were מוחזק, but not in those assets that were ראוי.

The Machlokes רבי וחכמים regarding

שבח ששבחו נכסים

לאחר מיתת אביהן

The profits of the father's assets that accrued on their own after his death;

Whether these profits are considered מוחזק and the בכור does get פי שנים, or they are considered ראוי and the בכור does not get פי שנים;

**B** All agree regarding

שבח שהשביחו יתומים

לאחר מיתת אביהן

If the profits accrued only through the work of the brothers, they are certainly considered ראוי and the בכור does not get פי שנים.

And all agree regarding

דיקלא

ואלים

ארעא

ואסיק שירטון

If the father's date tree grew bigger, or their father's field became fertilized from an overflowing river, the בכור does get a double portion in the שבח, because as the Rashbam explains

עדיין שמו עליו

Since the item still retains its original name, the שבח is considered a part of the item, the tree or the field, that were מוחזק.

The discussion regarding

מלוה בשטר

If the heirs collected a documented loan owed their father; According to רבי, the קרן, the principal, and even the incurred רבית, the interest, are considered מוחזק and the בכור gets פי שנים.

While in the חכמים' opinion there is a Machlokes as to whether the principal is considered מוחזק or ראוי.

All agree that a

מלוה על פה

If the loan was only a verbal commitment, the מלוה money is considered ראוי, and the בכור is not entitled to a double portion.

**A**

מוחזק

ראוי

אין הבכור נוטל  
בראוי כבמוחזק

שבח ששבחו נכסים  
לאחר מיתת אביהן

**B**

שבח שהשביחו יתומים  
לאחר מיתת אביהן

דיקלא  
ואלים  
ארעא

ואסיק שירטון  
עדיין שמו עליו

מלוה בשטר

מלוה על פה

1 So let's review ...

The Braisa in the previous Daf taught

הבכור נוטל פי שנים  
בשבח ששבחו נכסים  
לאחר מיתת אביהן

The בכור gets a double portion in the profits of the father's assets that accrued on their own after his death; such as הניח להן אביהן פרה מוחכרת ומושכרת ביד אחרים או שהיתה רועה באפר וילדה

If the father had rented his cow to others who cared for the cow;

Or the father's cow gave birth while grazing in the wild, where it can sustain itself;

בכור נוטל פי שנים

The בכור gets a double portion in the rental payment and in the newborn calf, because

שבחא דממילא קא אתי

ולא קא חסרי בה מזונא

Since the cow was in the father's possession before he died, and these profits accrued solely through the cow and not also through the work and expense of the brothers, the profits are also considered מוחזק for which a בכור is entitled to שנים פי.

However,

אבל בנו בתים ונטעו כרמים

אין בכור נוטל פי שנים

If the brothers built houses or planted vineyards in the father's property, the בכור does not get a double portion in these, because since these profits were through the work and expense of the brothers, they are considered ראוי for which a בכור is not entitled to שנים פי.

1

**הבכור נוטל פי שנים  
בשבח ששבחו נכסים  
לאחר מיתת אביהן**

The בכור gets a double portion in the profits of the father's assets that accrued on their own after his death; such as

**הניח להן אביהן**

**פרה מוחכרת ומושכרת ביד אחרים  
או שהיתה רועה באפר וילדה**

If the father had rented his cow to others who cared for the cow;

Or the father's cow gave birth while grazing in the wild, where it can sustain itself;

**בכור נוטל פי שנים**

The בכור gets a double portion in the rental payment and in the newborn calf, because

**שבחא דממילא קא אתי  
ולא קא חסרי בה מזונא**

Since the cow was in the father's possession before he died, and these profits accrued solely through the cow and not through the work and expense of the brothers, **the profits are also considered מוחזק and the בכור is entitled to שנים פי.**

**אבל בנו בתים ונטעו כרמים  
אין בכור נוטל פי שנים**

If the brothers built houses or planted vineyards the בכור does not get a double portion in these, since these profits were through the work and expense of the brothers, **ראוי**

**for which a בכור is not entitled to שנים פי.**

*This Braisa is רבי's opinion...*

- 2 As the Gemara explains, this Braisa is actually רבי's opinion in the following Braisa:  
 The רבנן say  
 אין בכור נוטל פי שנים  
 בשבח ששבחו נכסים  
 לאחר מיתת אביהן  
 The בכור does not get a double portion in any profits that accrued after the father's death, even those that accrued on their own.
- רבי disagrees and says that it depends:  
 בכור נוטל פי שנים  
 בשבח ששבחו נכסים  
 לאחר מיתת אביהן  
 In the profits that accrued on their own, the בכור does get a double portion;  
 אבל לא בשבח שהשיבחו יתומים  
 לאחר מיתת אביהן  
 In the profits that accrued through the work of the brothers, the בכור does not get a double portion.

2

ברייתא

<p>רבי</p> <p><b>בכור</b>  <b>נוטל פי שנים</b>  <b>בשבח ששבחו</b>  <b>נכסים</b>  <b>לאחר מיתת אביהן</b></p> <p><i>In profits that accrued on their own, the בכור does get a double portion;</i></p> <p><b>אבל לא בשבח</b>  <b>שהשיבחו יתומים</b>  <b>לאחר מיתת אביהן</b></p> <p><i>Profits accrued through the work of the brothers, the בכור does not get a double portion.</i></p>	<p>רבנן</p> <p><b>אין בכור</b>  <b>נוטל פי שנים</b>  <b>בשבח ששבחו</b>  <b>נכסים</b>  <b>לאחר מיתת אביהן</b></p> <p><i>The בכור does not get a double portion in any profits that accrued after the father's death, even those that accrued on their own.</i></p>
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3 And the Gemara explains their Machlokes as follows:  
 The רבנן hold  
 אין בכור נוטל פי שנים  
 בשבח ששבחו נכסים  
 Because the Pasuk states  
 לתת לו פי שנים  
 מתנה קרייה רחמנא  
 מה מתנה עד דמטיא לידיה  
 אף חלק בכורה עד דמטיא לידיה  
 The בכור's additional portion is compared to a gift.  
 Therefore, just as one can give a gift only if the item is currently in his possession, so too, the בכור is granted an additional portion only in the assets that were in his father's possession, but not in profits that were not yet in his possession, even if they accrued on their own.

While רבי holds that it depends  
 בכור נוטל פי שנים  
 בשבח ששבחו נכסים  
 Because the Pasuk states פי שנים  
 מקיש חלק בכורה לחלק פשוט  
 The בכור's additional portion is compared to his regular portion. Therefore,  
 מה חלק פשוט אע"ג דלא מטא לידיה  
 אף חלק בכורה אע"ג דלא מטא לידיה  
 Just as the regular portion is given to all heirs even from ראו, assets that were not in his father's possession, so too, the additional portion is given to a בכור even from שבח that are partially ראו, because this שבח came through the assets that were מוחזק. However,  
 אבל לא בשבח שהשביחו יתומים  
 The additional portion is not given to a בכור from שבח that is completely ראו and came through the work of the brothers, because the Pasuk states  
 בכל אשר ימצא לו  
 The word ימצא means, in all that is found in his possession. Therefore,  
 אין הבכור נוטל בראוי כבמוחזק  
 A בכור is entitled to a double portion only in the assets that were in his father's possession before he died, but not in those assets that came to his possession after he died.

3 **רבנן**  
**אין בכור נוטל פי שנים**  
**בשבח ששבחו נכסים**  
**לאחר מיתת אביהן**  
**לתת לו פי שנים**  
**מתנה קרייה רחמנא**  
**מה מתנה עד דמטיא לידיה**  
**אף חלק בכורה עד דמטיא לידיה**  
 The בכור's additional portion is compared to a gift.  
 Therefore, just as one can give a gift only if the item is currently in his possession, so too, by בכור.

**רבי**  
**בכור נוטל פי שנים**  
**בשבח ששבחו נכסים**  
**פי שנים**  
**מקיש חלק בכורה לחלק פשוט**  
 The בכור's additional portion is compared to his regular portion.  
**מה חלק פשוט**  
**אע"ג דלא מטא לידיה**  
**אף חלק בכורה**  
**אע"ג דלא מטא לידיה**  
 The additional portion is given to a בכור even from שבח that are partially ראו, because this שבח came through the assets that were מוחזק.  
 Just as the regular portion is given to all heirs even from ראו, assets that were not in his father's possession, the additional portion is given to a בכור even from שבח that are partially ראו, because this שבח came through the assets that were מוחזק.

**אבל לא בשבח שהשביחו יתומים**  
**בכל אשר ימצא לו**  
 The word ימצא means,  
 in all that is found in his possession.

Therefore,  
**אין הבכור נוטל בראוי כבמוחזק**  
 A בכור is entitled to a double portion only in assets that were in his father's possession before he died.

4 The Gemara continues to explain that according to the רבנן, the words פי שנים come to teach למייתבא ליה אחד מצרא The בכור gets the two portions side by side, not in separated areas.

And according to רבי, the word ליתת לו comes to teach שאם אמר איני נוטל ואיני נותן רשאי The בכור has the right to reject it if this was detrimental to him; As in the following case;

ירשו שטר חוב בכור נוטל פי שנים If the brothers inherited a documented loan owed their father, the בכור gets a double portion in the money that they collect from the לווה.

However, vice versa יצא עליהן שטר חוב בכור נותן פי שנים If a מלוה came to collect money owed by their father, the בכור must pay a double portion in the money that they pay to the מלוה, because all the assets are equally mortgaged for the loan.

And in a case where the other brothers traveled abroad and the מלוה cannot collect from them, the בכור would then be obligated to pay his part in the loan in proportion to his double portion.

In this case, he can reject the privilege of פי שנים and he would then only be obligated to pay his part in the loan in proportion to one regular portion.

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4

<p>According to רבי,</p> <p><b>לתת לו פי שנים</b></p> <p><i>לאם אחר איני נוטל ואיני נותן - לאי</i></p> <p>The additional portion is compared to a gift in that the בכור may reject it if it is detrimental to him.</p>	<p>According to the רבנן</p> <p><b>פי שנים</b></p> <p><i>אחייתבא ליה אחד מצרא</i></p> <p>The בכור gets the two portions side by side, not in separated areas.</p>
<p><b>ירשו שטר חוב בכור נוטל פי שנים</b></p> <p>If the brothers inherited a documented loan, the בכור gets a double portion in the money that they collect from the לווה.</p> <p><i>However,</i></p> <p><b>יצא עליהן שטר חוב בכור נותן פי שנים</b></p> <p>If a מלוה came to collect money owed by their father, the בכור must pay a double portion in the money, because all the assets are equally mortgaged for the loan.</p> <p>And in a case where the other brothers traveled abroad and the מלוה cannot collect from them, the בכור would then be obligated to pay his part in the loan in proportion to his double portion.</p> <p>In this case, he can reject the privilege of פי שנים and he would then only be obligated to pay his part in the loan in proportion to one regular portion.</p>	



5

Regarding

שבח ששבחו נכסים  
שבח explains there is no Machlokes regarding

דיקלא

ואלים

Or

ארעא

ואסיק שירטון

If the father's date tree grew bigger, or the father's field became fertilized from an overflowing river, even the רבנן agree that

בכור נוטל פי שנים

The בכור gets a double portion in the שבח, because as the Rashbam explains,

עדיין שמו עליו

Since the item still retains its original name, the שבח is considered a part of the item, the tree or the field, that was מוחזק.

The Machlokes is merely regarding

בחפורה

והוה שובלי

Or

שלופפי

והוה תמרי

If their father's hay grew into wheat, or the blossoms on his palm tree grew into figs;

The רבנן hold

אין בכור נוטל פי שנים

Because

אישתני

Since the item took on a new name because of the שבח, it is considered ראוי not מוחזק.

While רבי holds

בכור נוטל פי שנים

Because

שבחא דממילא

Since the שבח came only through the tree and field, it is considered מוחזק not ראוי.

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5

## שבח ששבחו נכסים

רב ספא

There is no Machlokes regarding

דיקלא – ואלים

or

ארעא – ואסיק שירטון

If the father's date tree grew bigger, or the father's field became fertilized from an overflowing river, even the רבנן agree that

בכור נוטל פי שנים

The בכור gets a double portion in the שבח, because

עדיין שמו עליו

Since the item still retains its original name, the שבח is considered a part of the item, the tree or the field, that was מוחזק.

The Machlokes is only regarding

בחפורה והוה שובלי

or

שלופפי והוה תמרי

If their father's hay grew into wheat, or the blossoms on his palm tree grew into figs;

רבי

בכור נוטל  
פי שנים

Because

שבחא דממילא  
Since the שבח came only  
through the tree and field,  
it is considered מוחזק.

רבנן

אין בכור נוטל  
פי שנים

Because

אישתני  
Since the item took on a new  
name because of the שבח,  
it is considered ראוי.

6 The Gemara proceeds with a discussion regarding מלוה בשטר  
 If the heirs collected a documented loan owed their father;  
 אומר רבי  
 בכור נוטל פי שנים  
 בין במלוה בין ברבית  
 רבי holds the בכור gets a double portion both in the קרן, the principal, and even in the רבית, the interest, that a non-Jewish לווה became obligated to pay, because as the Rashbam previously explained  
 כיון דמוחזק בשטר  
 ועל פי השטר גובין את המלוה  
 הרי הוא כאילו השטר השביח  
 דהיינו נכסים ששבחו ממילא  
 Since the loan document through which the loan is collected was already in the father's possession, all the monies collected through the שטר are also considered מוחזק.

The Rashbam adds, however  
 אבל מלוה על פה ואפילו בעדים  
 אפילו רבי מודה דבכור לא שקיל פי שנים  
 If the loan was only a verbal commitment but there was no שטר, even if there were witnesses to the loan, רבי agrees that a בכור does not get a double portion, because  
 כיון דליכא שטרא מצי טעין פרעתיה לך  
 ואין מוחזקין בחוב זה כלל  
 Since the לווה can claim that he already paid the loan, the money is considered ראוי and not in the father's possession.

6

**מלוה בשטר**  
 If the heirs collected a documented loan owed their father;

*אומר רבי*  
**בכור נוטל פי שנים**  
**בין במלוה בין ברבית**  
 The בכור gets a double portion both in the קרן, the principal, and even in the רבית, the interest, that a non-Jewish לווה became obligated to pay,  
*because*  
 כיון דמוחזק בשטר  
 ועל פי השטר גובין את המלוה  
 הרי הוא כאילו השטר השביח  
 דהיינו נכסים ששבחו ממילא  
*Since the שטר through which the loan is collected was already in the father's possession, all the monies collected through the שטר are also considered מוחזק.*

*The Rashbam adds, however*  
 אבל מלוה על פה ואפילו בעדים  
 אפילו רבי מודה דבכור לא שקיל פי שנים  
*If the loan was only a verbal commitment, even if there were witnesses to the loan, רבי agrees that a בכור does not get a double portion, because*  
 כיון דליכא שטרא מצי טעין פרעתיה לך  
 ואין מוחזקין בחוב זה כלל  
*Since the לווה can claim that he already paid the loan, the money is considered ראוי and not in the father's possession.*

**7** The Gemara cites a Machlokes in the רבנן's opinion:  
 רב יהודה אמר שמואל says  
 אין בכור נוטל פי שנים במלוה  
 The רבנן hold that a בכור does not get a double portion in the money collected through a בשטר, even in the principal, because as the Rashbam explains  
 דאינו מוחזק כלל במעות אלא בשטר  
 דהוי ניירא בעלמא  
 The actual money was not in the father's possession, only the שטר, which is merely a piece of paper. Therefore, the money is considered ראוי.

**While**

שלוהו מתם בכור נוטל פי שנים  
 במלוה אבל לא ברבית  
 The רבנן ruled that according to the רבנן, a בכור does get a double portion in the principal, but not in the interest, because  
 מלוה כמאן דגביא דמיא  
 As the Rashbam explains, the loaned money that was originally in the father's possession was transferred into the שטר, and the שטר serves as a משכון until the loan is repaid, and since the שטר was מוחזק, the principal is also considered מוחזק.  
 But the interest that was never in the father's possession, is not a part of the שטר, and is therefore considered ראוי not מוחזק;

This discussion continues in the next Daf.

**7** *A Machlokes in the רבנן's opinion*

**בכור נוטל פי שנים במלוה אבל לא ברבית**

*According to the רבנן, a בכור gets a double portion in the principal, but not in the interest, because*

**מלוה כמאן דגביא דמיא**

*The loaned money that was originally in the father's possession was transferred into the שטר, and the שטר serves as a משכון until the loan is repaid, and since the שטר was מוחזק, the principal is also considered מוחזק.*

*But the interest that was never in the father's possession, is not a part of the שטר, and is therefore considered ראוי not מוחזק;*

**אין בכור נוטל פי שנים במלוה**

*The רבנן hold, a בכור does not get a double portion in the money collected through a בשטר, even in the principal, because*

**דאינו מוחזק כלל במעות אלא בשטר**

*The actual money was not in the father's possession, only the שטר.*