A

בס"ד

Intro

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

אין הבכור נוטל בראוי כבמוחזק
A בכור is entitled to a double portion only in the assets that were מוחזק, in his father's possession before he died, but not in those assets that were ראוי, that came in his possession after he died.

A continuation of the בני מערבא's opinion regarding
בכור נוטל פי שנים
במלוה אבל לא ברבית
If the heirs collected a documented loan owed their father;
According to the רבנן, a בכור does get a double portion in the principal, but not in the interest, because as the Rashbam explains
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;

A

אין הבכור
נוטל בראוי כבמוחזק

בכור נוטל פי שנים
במלוה אבל לא ברבית

מלוה
כמאן דגביא דמיא

B

The Machlokes רבה and רב נחמן in the בני מערבא's opinion, Whether
גבו קרקע
Only if they collected land it is considered מוחזק.
Or
גבו מעות
Only if they collected money it is considered מוחזק.

יתומים שגבו קרקע בחובת אביהן
בעל חוב חוזר וגובה מהן
If the heirs collected land for money owed their father, the father's creditor can then confiscate this land for their father's debt. But if they collected money, the father's creditor cannot confiscate this money for their father's debt.

The Machlokes רב הונא ורב ענן in the incident of
סבתא
Whether a husband can inherit the portion of his deceased wife in her grandmother's assets?

מלוה שעמו פלגי
If the בכור had borrowed money from his father that he has not yet paid;
The בכור and his brothers split the additional portion in his loan payment.

B

Machlokes between רבה and רב נחמן
in the בני מערבא's opinion, whether
גבו מעות *or* גבו קרקע

יתומים שגבו קרקע
בחובת אביהן
בעל חוב חוזר וגובה מהן

סבתא

מלוה שעמו
פלגי

1

So let's review ...

The Gemara in the previous Daf discussed the רבנן's opinion of
אין בכור נוטל פי שנים
בשבח ששבחו נכסים לאחר מיתת אביהן
A בכור does not get a double portion in any profits that accrue after the father's death, because the profits are ראוי, they were not in his father's possession, and
אין הבכור נוטל בראוי כבמוחזק
A בכור is entitled to פי שנים only in the assets that were מוחזק, in his father's possession before he died, but not in those assets that were ראוי, that came into his possession after he died.

And the Gemara mentioned a Machlokes as to what the רבנן would hold regarding
מלוה בשטר
If the heirs collected a documented loan owed their father;
רב יהודה אמר שמואל says
אין בכור נוטל פי שנים במלוה
The רבנן hold that a בכור does not get פי שנים in the money collected through a מלוה 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
שלחו מתם בכור נוטל פי שנים
במלוה אבל לא ברבית
The בני מערבא ruled that according to the רבנן, a בכור does get פי שנים in the principal, but not in the interest, because
מלוה כמאן דגביא דמיא
As the Rashbam explains, the principal 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;
=======

1

רבנן

אין בכור נוטל פי שנים בשבח ששבחו נכסים לאחר מיתת אביהן

A בכור does not get a double portion in any profits that accrue after the father's death, because the profits are ראוי, they were not in his father's possession.

and

אין הבכור נוטל בראוי כבמוחזק

A בכור is entitled to פי שנים only if assets were מוחזק, in his father's possession before he died, but not in those assets that were ראוי.

A Machlokes in the רבנן's opinion

רב יהודה אמר שמואל

אין בכור נוטל פי שנים במלוה

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

because

דלאינו מוחזק כלל במעות אלא בשטר דהוי ניירא בעלמא

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

שלחו מתם

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;

2

The Gemara proceeds with a Machlokes in the opinion of the בני מערבא that
בכור נוטל פי שנים במלוה

רבה says
גבו קרקע יש לו
גבו מעות אין לו
Only if they collected land, it is considered מוחזק and the בכור gets פי שנים because, as the Rashbam explains,
דהאי קרקע אשתעבד לאבוהון בחייו
There was a lien on the לוה's land for the father's loan while he was alive. Therefore, the land is considered מוחזק. However,
גבו מעות אין לו
If they collected money, it is considered ראוי and the בכור does not get פי שנים, because
הני מעות אחריני נינהו
There was no lien on the לוה's money, and this money is not the original principal.

While רב נחמן says vice versa
גבו מעות יש לו
גבו קרקע אין לו
Only if they collected money, it is considered מוחזק and the בכור gets פי שנים, because, as the Rashbam explains,
שהרי במעות הלוהו
The original loan was also with money. However,
גבו קרקע אין לו
If they collected land, it is considered ראוי and the בכור does not get פי שנים, because
בקרקע לא הלוהו
The original loan was not with land.

2

A Machlokes in the opinion of the בני מערבא that

בכור נוטל פי שנים במלוה

רבה

גבו קרקע יש לו
גבו מעות אין לו

Only if they collected land, it is considered מוחזק and the בכור gets פי שנים

because,

דהאי קרקע אשתעבד לאבוהון בחייו

There was a lien on the לוה's land for the father's loan while he was alive. Therefore, the land is considered מוחזק. However,

גבו מעות אין לו

If they collected money, it is considered ראוי and the בכור does not get פי שנים, because

הני מעות אחריני נינהו

This money is not the original principal.

רב נחמן

גבו מעות יש לו
גבו קרקע אין לו

Only if they collected money, it is considered מוחזק and the בכור gets פי שנים

because,

שהרי במעות הלוהו

The original loan was also with money. However,

גבו קרקע אין לו

If they collected land, it is considered ראוי and the בכור does not get פי שנים, because

בקרקע לא הלוהו

The original loan was not with land.

3

The Gemara however explains that
טעמא דבני מערבא קאמרינן
ולכן לא סבירא לן
רב נחמן and רבה only elaborated on the opinion of the בני מערבא, but they themselves both disagree with the בני מערבא and hold like רב יהודה אמר שמואל that
אין בכור נוטל פי שנים במלוה
The בכור does not get פי שנים even in the principal.

As we see later from the incident of סבתא that רבה holds that even גבו קרקע is considered ראוי because
דאי קדים וזבנא זבינה זביני
Since the לוה has the ability to sell his fields, and pay back the loan with other assets, the fields are not מוחזק to the מלוה.

And from another statement of רב נחמן we see that he holds that land is considered more מוחזק than money, as רב נחמן says
יתומים שגבו קרקע בחובת אביהן
בעל חוב חוזר וגובה מהן
If the heirs collected land for money owed their father, the father's creditor can then confiscate this land for their father's debt. But if they collected money, the father's creditor cannot confiscate this money for their father's debt.

However, as the Rashbam explains;
רב נחמן holds that only a בעל חוב can collect the land because of the שיעבוד, the lien that he has on all properties, even those mortgaged to the father based on שיעבודא דרבי נתן.
However, regarding פי שנים, Rav Nachman agrees with רב יהודה אמר שמואל that even land is considered ראוי, not מוחזק, because
דאי קדים וזבנא זבינה זביני
The father's debtor has the ability to sell the fields and pay back the loan with other assets.
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3

טעמא דבני מערבא קאמרינן
ולכן לא סבירא לן
רב נחמן and רבה only elaborated on the opinion of the בני מערבא, but they themselves both disagree with the בני מערבא and hold like רב יהודה אמר שמואל that
אין בכור נוטל פי שנים במלוה
The בכור does not get פי שנים even in the principal.
As we see later from the incident of
סבתא
that רבה holds that even גבו קרקע is considered ראוי
because
דאי קדים וזבנא זבינה זביני
Since the לוה has the ability to sell his fields, and pay back the loan with other assets, the fields are not מוחזק to the מלוה.
And from another statement of רב נחמן we see that he holds that land is considered more מוחזק than money,
as רב נחמן says
יתומים שגבו קרקע בחובת אביהן
בעל חוב חוזר וגובה מהן
If the heirs collected land for money owed their father, the father's creditor can then confiscate this land for their father's debt.
But if they collected money, the father's creditor cannot confiscate this money for their father's debt.
רב נחמן holds that only a בעל חוב can collect the land because of the שיעבוד, the lien that he has on all properties, even those mortgaged to the father based on שיעבודא דרבי נתן.
However, regarding פי שנים,
Rav Nachman agrees with רב יהודה אמר שמואל
that even land is considered ראוי, not מוחזק, because
דאי קדים וזבנא זבינה זביני
The father's debtor has the ability to sell the fields and pay back the loan with other assets.

4

The Gemara proceeds with the incident of סבתא:
ההוא דאמר להו נכסי לסבתא
ובתרה לירתאי
There was a dying person who stipulated that his assets should first go to his grandmother, and after she dies the assets should go to HIS heirs and not to HER heirs.
הויא ליה ברתא דהוה נסיבא
שכיבא בחיי בעלה ובחיי סבתא
He had a married daughter who died while the grandmother was still alive.
בתר דשכיבא סבתא
אתא בעל קא תבע
After the grandmother died, the daughter's husband demanded these assets which he inherits through his wife.

רב הונא ruled
לירתי
ואפילו לירתי ירתי
The owner's stipulation of לירתי also includes his heir's heir, such as the husband who inherits from his daughter. Therefore, the assets belong to the husband.
While רב ענן ruled
לירתי ולא לירתי ירתי
The owner's stipulation of ליתרי includes only his heir, but not his heir's heir, such as his daughter's husband. Therefore, the assets do not belong to the husband, but to the סבתא's heirs.

שלחו מתם
הלכתא כוותיה דרב ענן
ולאו מטעמיה
The בני מערבא ruled like רב ענן that these assets do not belong to the husband, but for a different reason:
משום דהוה ליה ראוי
ואין הבעל נוטל בראוי כבמוחזק
Because these assets only came in to his wife's possession after she died, when her סבתא died, and a husband inherits only his wife's assets that were already in her possession when she died.
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4
The incident of סבתא
ההוא דאמר להו נכסי לסבתא
ובתרה לירתאי
There was a dying person who stipulated that his assets should first go to his grandmother, and after she dies the assets should go to HIS heirs and not to HER heirs.
הויא ליה ברתא דהוה נסיבא
שכיבא בחיי בעלה ובחיי סבתא
He had a married daughter who died while the grandmother was still alive.
בתר דשכיבא סבתא
אתא בעל קא תבע
After the grandmother died, the daughter's husband demanded these assets which he inherits through his wife.
רב הונא
לירתי
ואפילו לירתי ירתי
The owner's stipulation of לירתי also includes his heir's heir, such as the husband who inherits from his daughter. Therefore, the assets belong to the husband.
רב ענן
לירתי
ולא לירתי ירתי
The owner's stipulation of ליתרי includes only his heir, but not his heir's heir; his daughter's husband. Therefore, the assets do not belong to the husband, but to the סבתא's heirs.
שלחו מתם
הלכתא כוותיה דרב ענן
ולאו מטעמיה
The בני מערבא ruled like רב ענן that these assets do not belong to the husband - but for a different reason:
משום דהוה ליה ראוי
ואין הבעל נוטל בראוי כבמוחזק
Because these assets only came in to his wife's possession after she died, when her סבתא died, and a husband inherits only his wife's assets that were already in her possession when she died.

5

The Rashbam points out that there seems to be a contradiction in the בני מערבא:
In the incident of סבתא the בני מערבא hold
משום דהוה ליה ראוי
ואין הבעל נוטל בראוי כבמוחזק
The anticipated ירושה is considered ראוי not מוחזק, and therefore they do not belong to the husband

While regarding מלוה בשטר the בני מערבא hold
בכור נוטל פי שנים במלוה
The anticipated loan payment is considered מוחזק and therefore the בכור gets פי שנים.

The Rashbam answers:
According to רב נחמן there is no contradiction, because he says the בני מערבא hold
גבו מעות יש לו
גבו קרקע אין לו
Therefore, the anticipated ירושה that was land is considered ראוי, while the מלוה בשטר that was paid with money is considered מוחזק.

And according to רבה there is no contradiction either, even though both cases are discussing land, because only regarding סבתא in which the land was a ירושה, it is considered ראוי, because
לא אשתעבד לא לבעל ולא לאשתו
שהרי לא לוותה מן הבת ומן בעלה כלום
The סבתא did not owe anything to the daughter or her husband, and there was no lien on her land.

However, regarding מלוה בשטר, the land is considered מוחזק, because
דהאי קרקע אשתעבד לאבוהון בחייו
The מלוה owes money to the father, and there was a lien on the land for the father's loan while he was alive. Therefore, the שיעבוד causes it to be considered מוחזק according to the בני מערבא.
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5

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In the incident of סבתא the בני מערבא hold
משום דהוה ליה ראוי ואין הבעל נוטל בראוי כבמוחזק
The anticipated ירושה is considered ראוי not מוחזק, and therefore they do not belong to the husband.

While regarding מלוה בשטר the בני מערבא hold
בכור נוטל פי שנים במלוה
The anticipated loan payment is considered מוחזק and therefore the בכור gets פי שנים.

The Rashbam answers:
According to רב נחמן there is no contradiction, because he says the בני מערבא hold
גבו מעות יש לו
גבו קרקע אין לו
Therefore, anticipated ירושה that is land is ראוי, while a מלוה בשטר that was paid with money is a מוחזק.

According to רבה there is no contradiction, even though both cases are discussing land, because only regarding סבתא where the land was a ירושה, it is considered ראוי, because
לא אשתעבד לא לבעל ולא לאשתו
שהרי לא לוותה מן הבת ומן בעלה כלום
The סבתא did not owe anything to the daughter or her husband, and there was no lien on her land.

However, regarding מלוה בשטר, the land is considered מוחזק, because
דהאי קרקע אשתעבד לאבוהון בחייו
The מלוה owes money to the father, and there was a lien on the land for the father's loan while he was alive. Therefore, the שיעבוד causes it to be considered מוחזק according to the בני מערבא.

6

The Gemara concludes as follows:

1.
אמר רב פפא
הלכתא אין הבעל נוטל בראוי כבמוחזק
A husband inherits only his wife's assets that were already in her possession before she died, but not those that came to her after she died.

2.
ואין הבכור
נוטל בראוי כבמוחזק
A בכור gets פי שנים only in the assets that were in his father's possession before he died, but not in those assets that came in him after he died.

3.
ואין הבכור נוטל פי שנים במלוה
בין שגבו קרקע בין שגבו מעות
רב פפא rules in favor of רב יהודה אמר שמואל that according to the רבנן a בכור does not get פי שנים of a collected loan even in the principal, regardless of whether they collected land or money.

4.
ומלוה שעמו
פלגי
If the בכור had borrowed money from his father that he has not yet paid;
The בכור and his brothers split the additional portion in his loan payment, because as the Rashbam explains
דהוה ליה ממון המוטל בספק
It is questionable whether this payment is considered מוחזק or ראוי:
Perhaps
הבכור גמר ומקני נכסיו לאביו
כדי שיהא אביו מוחזק בהן
The בכור's payment is considered מוחזק to the father, because the בכור already transferred the money to his father while he was alive, so that he can receive a double portion.
OR perhaps
לא שנא משאר מלוה
This is no different than other loans, in which the payment is considered ראוי. Therefore
פלגי
They split the amount of the additional portion.

6

1

אמר רב פפא
הלכתא
אין הבעל נוטל בראוי כבמוחזק
A husband inherits only his wife's assets that were already in her possession before she died, but not those that came to her after she died.

2

ואין הבכור
נוטל בראוי כבמוחזק
A בכור gets פי שנים only in the assets that were in his father's possession before he died, but not assets that came in him after he died.

3

ואין הבכור נוטל פי שנים במלוה
בין שגבו קרקע – בין שגבו מעות
רב פפא rules in favor of רב יהודה אמר שמואל that according to the רבנן a בכור does not get פי שנים of a collected loan even in the principal, regardless of whether they collected land or money.

4

ומלוה שעמו
פלגי
If the בכור had borrowed money from his father that he has not yet paid;
The בכור and his brothers split the additional portion in his loan payment,
because as the Rashbam explains
דהוה ליה ממון המוטל בספק
It is questionable whether this payment is considered מוחזק or ראוי:

Perhaps
הבכור גמר ומקני נכסיו לאביו
כדי שיהא אביו מוחזק בהן
The בכור's payment is considered מוחזק to the father, because the בכור already transferred the money to his father while he was alive, so that he can receive a double portion.

OR perhaps
לא שנא משאר מלוה
This is no different than other loans, in which the payment is considered ראוי.

Therefore – פלגי – they split the additional portion.