

A בס"ד

Intro

Today we will Be"H learn דף קמ"ד of בתרא בבא בתרא. Some of the topics we will learn about include:

הניח בנים גדולים וקטנים

If someone dies, leaving behind adult and young sons, whether

השביחו לאמצע

או השביחו לעצמן

If the adult sons improved the undivided estate, whether the young sons also share in the profits?

The Gemara teaches several

הלכתא בלא טעמא

Several novel forms of קנין:

1.

המשיא אשה לבנו בבית

קנאו

Under certain conditions, a son acquires the house in which his father married him off.

2.

הכותב כל נכסיו לאשתו

לא עשאה אלא אפוטרופא

If someone writes over his entire estate to his wife, we assume he merely appointed her to administer the estate, and she does not acquire the property.

B 3.

מעמד שלשתן

If someone says, "Give my מנה that is in your possession to this person," in the presence of all three parties, the transaction is effective.

אחין השותפין

Before an estate is divided,

נפל לאחד אומנות

Which earnings are counted towards the common estate, and

חלה ונתרפא

Whether they can take money for medical expenses from the estate?

שושבינות

The custom was for people to bring gifts to a wedding, and then participate in the festivities, with the assumption that the other party would reciprocate when the time comes.

A

הניח בנים
גדולים וקטנים

הלכתא בלא טעמא

המשיא אשה לבנו בבית
קנאו

הכותב כל נכסיו לאשתו
לא עשאה אלא אפוטרופא

B

מעמד שלשתן

אחין השותפין
נפל לאחד אומנות
חלה ונתרפא

שושבינות



1 So let's review...

Zugt di Mishnah

הניח בנים גדולים וקטנים

If someone dies, leaving behind adult and young sons,

השביחו גדולים את הנכסים

השביחו לאמצע

If the adult sons improved the undivided estate, the young sons also share in the profits.

The Gemara qualifies;

לא שנו אלא

ששבחו נכסים מחמת נכסים

If they improved the estate by hiring workers from the estate funds, they all share the profits; but

השביחו נכסים מחמת עצמן

השביחו לעצמן

If they invested their own time or money to improve the estate, they keep all the profits.

However, the Gemara adds,

הניח להם אביהם אודייני

השכר לאמצע

If they inherited a well that they rent to farmers to irrigate their fields, they all share the profits, even though the adult sons guarded it,

because

לנטירותא הוא דעבידא

ואפילו קטנים נמי

מצו מנטרי לה

The young sons are also capable of guarding it.

1

הניח בנים גדולים וקטנים

If someone dies, leaving behind adult and young sons,

השביחו גדולים את הנכסים

השביחו לאמצע

If the adult sons improved the undivided estate, the young sons also share in the profits.

The Gemara qualifies;

השביחו נכסים

מחמת עצמן

השביחו לעצמן

If they used their own time or money to improve the estate, they keep all the profits.

לא שנו אלא

ששבחו נכסים

מחמת נכסים

If they improved the estate by hiring workers from the estate funds, they all share the profits;

However, the Gemara adds,

הניח להם אביהם אודייני

השכר לאמצע

If they inherited a well

that they rent to farmers to irrigate their fields, they all share the profits, even though the adult sons guarded it,

because

לנטירותא הוא דעבידא

ואפילו קטנים נמי

מצו מנטרי לה

The young sons are also capable of guarding it.

2 However, the Mishnah continues, if the adult sons declare ראו מה שהניח אבא הרי אנו עושין ואוכלים השביחו לעצמן "Let's assess our father's estate, and our improvements will be generated from our portion;" In other words, they're asking to divide the estate, but בית דין delayed dividing the estate, then the adult sons keep all the profits.

The Gemara adds

גברא רבה

כמאן דאמר דמי

If a חכם invests time in improving the estate, it is as if he made this declaration, because

לא שביק גירסיה

וטרח לאחריני

He would only take time off his learning for his personal gain.

=====

2

משנה

**ראו מה שהניח אבא
הרי אנו עושין ואוכלים
השביחו לעצמן**

*"Let's assess our father's estate,
and our improvements will be generated
from our portion;"*

*In other words, they're asking to divide the estate,
but בית דין delayed dividing the estate,
then the adult sons keep all the profits.*

**גברא רבה
כמאן דאמר דמי**

*If a חכם invests time in improving the estate,
it is as if he made this declaration, because*

**לא שביק גירסיה
וטרח לאחריני**

*He would only take time off his learning
for his personal gain.*

3 The Mishnah continues, as the Gemara explains, by discussing
 אשה יורשת
 A woman who inherits her husband; for example, if he said ®
 תטול האשה כאחד מן הבנים
 My wife shall inherit a portion among my children.
 The Mishnah rules
 וכן האשה שהשביחה את הנכסים
 השביחה לאמצע
 Similarly, if she improved the estate, the other heirs also share in the profits, and we do not say
 כיון דלאו דרכה למטרה
 אף על גב דלא פריש
 כמו דפריש דמי
 Since a woman does not usually involve herself in business, it is as if she made the declaration, and she keeps the profit. Rather, his other heirs also share in the profits.

However,
 אם אמרה
 ראו מה שהניח לי בעלי
 הרי אני עושה ואוכלת
 השביחה לעצמה
 If she said, "Let's assess the estate, and the improvements will be generated from my portion," and בית דין delayed dividing the estate, we do not say
 כיון דשביחה לה מילתא
 דאמרי קא טרחא קמי יתמי
 אחולי אחלה
 She agrees to work on their behalf, since this enhances her reputation. Rather, we assume the declaration was sincere, and she keeps all the profits.
 =====

3 *ואלפי*

The Mishnah continues by discussing
אשה יורשת
A woman who inherits her husband;
for example, if he said
תטול האשה כאחד מן הבנים
My wife shall inherit a portion among my children.

**וכן האשה שהשביחה את הנכסים
 השביחה לאמצע**
*Similarly, if she improved the estate,
 the other heirs also share in the profits,
 and we do not say*
**כיון דלאו דרכה למטרה
 אף על גב דלא פריש
 כמו דפריש דמי**
*Since a woman does not usually involve herself in business,
 it is as if she made the declaration, and she keeps the profit.
 Rather, his other heirs also share in the profits.*

However,
**אם אמרה
 ראו מה שהניח לי בעלי
 הרי אני עושה ואוכלת
 השביחה לעצמה**
*If she said, "Let's assess the estate,
 and the improvements will be generated from my portion,"
 and בית דין delayed dividing the estate,*
We do not say
**כיון דשביחה לה מילתא
 דאמרי קא טרחא קמי יתמי
 אחולי אחלה**
*She agrees to work on their behalf,
 since this enhances her reputation.
 Rather, we assume the declaration was sincere,
 and she keeps all the profits.*

4 The Gemara discusses
הלכתא בלא טעמא
Several novel forms of קנין instituted by the חכמים:
1.
המשיא אשה לבנו בבית
קנאו
When one marries off his son in a house built for the
wedding, the son acquires the house, under the following
conditions:
גדול
He is the oldest son;
בתולה
He is marrying a single woman, not a widow or divorcee;
אשתו ראשונה
He is marrying for the first time; and
השיאו ראשון
He is the first of his siblings to marry.

As the Rashbam explains;
תקנת חכמים היא לכבוד החתן
שגנאי הדבר לשאת אשה ואין מקום לדור בו
This is a תקנה to ensure that the couple has where to live,
and
בכי האי גוונא חביב ליה טפי
Under these circumstances, the father is especially
joyous, and we assume he wants to give him this gift.

4

הלכתא בלא טעמא
Several novel forms of קנין instituted by the חכמים:

1

המשיא אשה לבנו בבית
קנאו
*If one marries off his son in a house built for the wedding,
the son acquires the house,
under the following conditions:*

גדול
He is the oldest son;

בתולה
He is marrying a single woman;

אשתו ראשונה
He is marrying for the first time;

השיאו ראשון
He is the first of his siblings to marry.

As the Rashbam explains;
תקנת חכמים היא לכבוד החתן
שגנאי הדבר לשאת אשה ואין מקום לדור בו
This is a תקנה to ensure that the couple has where to live,
בכי האי גוונא חביב ליה טפי
*Under these circumstances, the father is especially joyous,
and we assume he wants to give him this gift.*

- 5 The Gemara qualifies this Halachah:
 היה אוצרו של אביו מונח שם
 לא קנה בית
 If his father stored some possessions in the house, he does not acquire the house.
 Furthermore,
 ייחד לו אביו בית ועלייה
 בית קנה
 עלייה לא קנה
 If he married in a two-story house, he only acquires the ground floor, not the upper story.
- The Gemara inquires:
 בית ואכסדרה
 If the house had a porch, OR
 שני בתים זה לפניו מזה
 If there were two dwellings, one leading into the other, does he acquire the entire the entire property?
 תיקו
 The Gemara leaves these questions unresolved.

5

**היה אוצרו של אביו מונח שם
לא קנה בית**
*If his father stored some possessions in the house,
he does not acquire the house.*

Furthermore,
**ייחד לו אביו בית ועלייה
בית קנה
עלייה לא קנה**
*If he married in a two-story house,
he only acquires the ground floor,
not the upper story.*

?

בית ואכסדרה
If the house had a porch,
OR
שני בתים זה לפניו מזה
If there were two dwellings, one leading into the other.
Does he acquire the entire the entire property?

תיקו

- 6 2.
 הכותב כל נכסיו לאשתו
 לא עשאה אלא אפוטרופא
 If someone writes over his entire estate to his wife, we assume he merely appointed her to administer the estate, and she does not acquire the property.
3.
 מנה לי בידך תנהו לפלוני
 במעמד שלשתן
 קנה
 If someone says, "Give my מנה that is in your possession to this person," in the presence of all three parties, the transaction is effective.
 =====

6

2

**הכותב כל נכסיו לאשתו
לא עשאה אלא אפוטרופא**
*If someone writes over his entire estate to his wife,
we assume he merely appointed her to administer the estate,
and she does not acquire the property.*

3

**מנה לי בידך תנהו לפלוני
במעמד שלשתן
קנה**
*If someone says,
"Give my מנה that is in your possession to this person,"
in the presence of all three parties,
the transaction is effective.*

7 Zugt di Mishnah
 אחין השותפין
 שנפל אחד מהן לאומנות
 נפל לאמצע
 As the ברייתא explains:
 אחד מן האחין שמינוהו גבאי
 If, before the estate was divided, one brother was appointed as the government tax collector, which was usually assigned to the townspeople on a rotating basis, it depends:
 אם מחמת האחין
 לאחין
 אם מחמת עצמו
 לעצמו
 If he got this appointment as a representative of the household, he shares his profits with the brothers, because these profits are considered part of the estate.
 But if he got this appointment on his own merit, he keeps the profit.

7 משנה

**אחין השותפין
 שנפל אחד מהן לאומנות
 נפל לאמצע**

As the ברייתא explains:
אחד מן האחין שמינוהו גבאי
 If, before the estate was divided,
 one brother was appointed as the government tax collector, which was usually assigned to the townspeople on a rotating basis, it depends:

אם מחמת עצמו לעצמו	אם מחמת האחין לאחין
<i>But if he got this appointment on his own merit, he keeps the profit.</i>	<i>If he got this appointment as a representative of the household, he shares his profits with the brothers, because these profits are considered part of the estate.</i>

8 The Gemara cites a related ברייתא:
 אחד מן האחין שנטל מאתים זו
 ללמוד תורה או ללמוד אומנות
 If one brother took money from the estate to study Torah or to learn a profession;
 יכולין האחין לומר לו
 אם אתה אצלנו
 יש לך מזונות
 אם אין אתה אצלנו
 אין לך מזונות
 The brothers can say:
 As long as you live with us, you may take full support from the estate, because
 ברכת הבית ברובה
 Our shared expenses are lower.
 However, if you do not live with us, you may not take full support from the estate. Rather,
 ליתבו ליה לפי ברכת הבית
 He only receives support as if he were a member of the household.
 =====

8 ברייתא

**אחד מן האחין שנטל מאתים זו
 ללמוד תורה או ללמוד אומנות**

If one brother took money from the estate to study Torah or to learn a profession;
יכולין האחין לומר לו

אם אין אתה אצלנו אין לך מזונות	אם אתה אצלנו יש לך מזונות
<i>However, if you do not live with us, you may not take full support from the estate.</i> <i>Rather,</i> ליתבו ליה לפי ברכת הבית <i>He only receives support as if he were a member of the household.</i>	<i>As long as you live with us, you may take full support from the estate, because</i> ברכת הבית ברובה <i>Our shared expenses are lower.</i>

9 The Mishnah continues

חלה ונתרפא

נתרפא משל עצמו

If the brother became ill, and then healed, he pays these costs from his own share.

As the Gemara explains, the above ruling is where שחלה בפשיעה

He became ill due to his own negligence, as רבי חנינא taught

הכל בידי שמים

חוץ מצננים ופחים

Everything that happens to a person is preordained, but one can avoid falling ill due to the cold. However,

באונס

נתרפא מן האמצע

If he became ill due to unavoidable circumstances, he may take these expenses from the estate.

=====

9

חלה ונתרפא

נתרפא משל עצמו

If the brother became ill, and then healed, he pays these costs from his own share.

As the Gemara explains, the above ruling is where

שחלה בפשיעה

He became ill due to his own negligence,

As רבי חנינא taught

הכל בידי שמים

חוץ מצננים ופחים

Everything that happens to a person is preordained, but one can avoid falling ill due to the cold.

However,

באונס

נתרפא מן האמצע

If he became ill due to unavoidable circumstances, he may take these expenses from the estate.

10 The Mishnah next discusses

שושבינות

The custom was for people to bring gifts to a wedding, and then participate in the festivities, with the assumption that the other party would reciprocate when the time comes.

Zugt di Mishnah

האחין שעשו מקצתן שושבינות בחיי האב

If the deceased had sent one of the sons to a wedding with gifts as a שושבין;

חזרה שושבינות

חזרה לאמצע

When this son marries and the other person reciprocates, he must share the gifts with the other brothers, because שהשושבינות נגבית בבית דין

This is repayment for the father's gift and is similar to a loan.

אבל השולח לחבירו כדי יין וכדי שמן

אין נגבין בב"ד

מפני שהן גמילות חסדים

If he merely sent someone a gift, and that person then reciprocated, this is not similar to a loan, and therefore, this brother keeps them for himself.

The Gemara cites a contradictory ברייתא:

שלח לו אביו שושבינות

If the father sent one of the sons with gifts as a שושבין,

כשהיא חוזרת

חוזרת לו

When this son marries and the other person reciprocates, he keeps the gift.

However,

נשתלחה לאביו שושבינות

If someone sent the father שושבינות when he married,

כשהיא חוזרת

חוזרת מן האמצע

When the other person marries, the entire estate must reciprocate, since it is like their father's debt.

Our Mishnah's ruling

חזרה שושבינות

חזרה לאמצע

Seems to contradict the Braisa's first ruling

כשהיא חוזרת

חוזרת לו

10

שושבינות

The custom was for people to bring gifts to a wedding, and then participate in the festivities, with the assumption that the other party would reciprocate when the time comes.

משנה

האחין שעשו מקצתן שושבינות בחיי האב

If the deceased had sent one of the sons to a wedding with gifts as a שושבין;

חזרה שושבינות חזרה לאמצע

When this son marries and the other person reciprocates, he must share the gifts with the other brothers,

שהשושבינות נגבית בבית דין

Because this is repayment for the father's gift and is similar to a loan.

אבל השולח לחבירו כדי יין וכדי שמן אין נגבין בב"ד

Mפני שהן גמילות חסדים
If he merely sent someone a gift, and that person then reciprocated, this is not similar to a loan, therefore, this brother keeps them for himself.

ברייתא

?

שלח לו אביו שושבינות

If the father sent one of the sons with gifts as a שושבין,

כשהיא חוזרת חוזרת לו

When this son marries and the other person reciprocates, he keeps the gift.

However,

נשתלחה לאביו שושבינות

If someone sent the father שושבינות when he married,

כשהיא חוזרת חוזרת מן האמצע

11 The Gemara offers three answers:

1.

מתניתין נשתלחה לאביו תנן

The Mishnah actually refers to gifts that were sent TO the father, and rules that the estate must reciprocate, as in the second case of the Braisa.

2.

כאן בסתם

כאן במפרש

The Mishnah refers to a case where he sent the son to bring the שושבינות, without specifying that it be for that particular son. Therefore, all the brothers share in the reciprocal שושבינות.

However, the ברייתא discusses where he specified that the שושבינות sent be on behalf of that particular son, and so he alone gets the reciprocal שושבינות.

3.

ביבם עסקינן

שאינו נוטל בראוי כבמוחזק

The Mishnah refers to one who performs יבום with his brother's wife.

The deceased brother had sent שושבינות to someone, who is now reciprocating.

Although he alone inherits that brother's assets, he does not inherit his outstanding debts, such as שושבינות.

Therefore, when the reciprocal שושבינות comes back, all the brothers inherit their deceased brother's שושבינות equally.

The Gemara adds

כגון ששמח עמו ז' ימי משתה

ולא הספיק לפורעו עד שמת

The other person must reciprocate for the deceased brother's שושבינות only if he participated in the festivities of the deceased brother, and the brother died before receiving the gift. Therefore, he pays his debt to his estate. However, if he died in אריסות before marrying, the other person does not have to reciprocate, because he can argue

תנו לי שושביני ואשמח עמו

I am only obligated to give שושבינות if I partake in his wedding.

11

1

מתניתין "נשתלחה לאביו" תנן

The Mishnah actually refers to gifts that were sent to the father, and rules that the estate must reciprocate, as in the second case of the Braisa.

2

כאן בסתם – כאן במפרש

Howbeit, the ברייתא discusses where he specified that the שושבינות sent be on behalf of that particular son, and so he alone gets the reciprocal שושבינות.

The Mishnah refers to where he sent the son to bring the שושבינות, without specifying that it be for that particular son. Therefore, all the brothers share in the reciprocal שושבינות.

3

ביבם עסקינן
שאינו נוטל בראוי כבמוחזק

The Mishnah refers to one who performs יבום with his brother's wife.

The deceased brother had sent שושבינות to someone, who is now reciprocating. Although he alone inherits that brother's assets, he does not inherit his outstanding debts, such as שושבינות.

Therefore, when the reciprocal שושבינות comes back, all the brothers inherit their deceased brother's שושבינות equally.

The Gemara adds

כגון ששמח עמו ז' ימי משתה
ולא הספיק לפורעו עד שמת

The other person must reciprocate for the deceased brother's שושבינות only if he participated in the festivities of the deceased brother, and the brother died before receiving the gift.

Therefore, he pays his debt to his estate.

However, if he died in אריסות before marrying, the other person does not have to reciprocate, because he can argue

תנו לי שושביני ואשמח עמו

I am only obligated to give שושבינות if I partake in his wedding.