

**A** בס"ד

Intro

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

A continuation in the Mishnah's Halachah of שכיב מרע שכתב כל נכסיו לאחרים ושייר קרקע כל שהוא מתנתו קיימת

If a dying person assigned all his assets to someone, but kept for himself a small parcel of land, if he recovers he cannot reclaim the gift.

However

לא שייר קרקע כל שהוא אין מתנתו קיימת

If he did not keep any land for himself and he recovers, then he can reclaim the gift.

The question of

מכר כל נכסיו מהו

If a שכיב מרע sold all his assets to someone and he recovers, can he retract from the sale or not?

The question of

שכיב מרע שהודה מהו

If a שכיב מרע admitted that his assets belong to another person, while it was well known that these assets belong to the שכיב מרע and not to that person, does פלוני acquire the assets or not?

קנין אודיתא

If one admits to owing someone money, while it was well known that this was not so, we assume that he intended to give him the money as a gift, and the recipient acquires the money through the אודיתא.

**B** The incident of

איסור גיורא הוה ליה תריסר אלפי זוזי בי רבא

the convert gave twelve thousand Zuz for safekeeping and then fell ill, and he was only able to transfer the money to his son רב מרי, through אודיתא but not through any other קנינים.

The Machlokes regarding the Mishnah's Halachah of

שייר קרקע כל שהוא מתנתו קיימת

כמה כל שהוא

What is the minimum amount that the שכיב מרע must keep in order for us to assume that he gave the gift unconditionally?

Is this only through קרקע, land, or even מטלטלין, moveable assets?

**A**

שכיב מרע  
שכתב כל נכסיו לאחרים  
ושייר קרקע כל שהוא  
מתנתו קיימת

לא שייר קרקע כל שהוא  
אין מתנתו קיימת

מכר כל נכסיו מהו

שכיב מרע שהודה מהו

קנין אודיתא

**B**

איסור גיורא  
הוה ליה תריסר אלפי זוזי  
בי רבא

שייר קרקע כל שהוא  
מתנתו קיימת

כמה כל שהוא

Is this only through קרקע,  
or even מטלטלין?

## 1 So let's review ...

The previous Mishnah taught

שכיב מרע שכתב כל נכסיו לאחרים  
ושייר קרקע כל שהוא  
מתנתו קיימת

If a dying person assigned all his assets to others but kept  
for himself a small parcel of land, if he recovers he cannot  
reclaim the gift, because as the Rashbam explains

דשלא מודאגת מיתה נתן

Since he set kept something for himself, he apparently still  
hoped to recover, and he gave the gift unconditionally  
regardless of whether he dies or not.

However

לא שייר קרקע כל שהוא  
אין מתנתו קיימת

If he did not keep any land for himself and he recovers, he  
can reclaim the gift, because

שמחמת מיתה נתן

Since he did not keep anything for himself, he apparently  
had no hopes of recovering, and there is an assumption  
that he gave the gift only on condition that he dies, but not  
if he recovers.

## 1

אלוף

שכיב מרע שכתב כל נכסיו לאחרים  
ושייר קרקע כל שהוא  
מתנתו קיימת

If a dying person assigned all his assets to others  
but kept for himself a small parcel of land,  
if he recovers he cannot reclaim the gift,

*because as the Rashbam explains*

דשלא מודאגת מיתה נתן

*Since he set kept something for himself,  
he apparently still hoped to recover, and he gave the  
gift unconditionally regardless if he dies or not.*

*However*

לא שייר קרקע כל שהוא  
אין מתנתו קיימת

If he did not keep any land for himself and he recovers,  
he can reclaim the gift,

*because*

שמחמת מיתה נתן

*Since he did not keep anything for himself,  
he apparently had no hopes of recovering,  
and there is an assumption that he gave the gift only  
on condition that he dies, but not if he recovers.*

1 The Gemara inquires;  
איבעיא להו  
מכר כל נכסיו מרע  
If a מרע sold all his assets to someone and he recovered, can he retract from the sale, or not?

The Gemara cites two contradicting statements of רב יהודה רב  
אמר רב  
In one he ruled;  
אם עמד  
אינו חוזר  
In another he ruled;  
אם עמד  
חוזר  
And the Gemara reconciles them as follows:  
דאיתנהו לזווי בעינייהו  
אם עמד חוזר  
If the מרע still has the original sale money, he can retract from the sale, because as the Rashbam explains להכי שבקינהו  
אמר אם אעמוד מחולי אחזירם  
He did not use the money intentionally, so that if he recovers from his illness he can return the money and void the sale.  
However if  
דפרעינהו בחובו  
אם עמד אינו חוזר  
If the מרע already spent the money to pay his debts, he cannot retract from the sale, because he apparently agreed to the sale regardless of whether he recovers or not.  
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1

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איבעיא לכו  
**מכר כל נכסיו מרע**  
If a מרע sold all his assets to someone and he recovered, can he retract from the sale?

**רב יהודה אמר רב**

<p><i>In one he ruled;</i> <b>אם עמד</b> <b>אינו חוזר</b></p>	<p><i>In another he ruled;</i> <b>אם עמד</b> <b>חוזר</b></p>
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*And the Gemara reconciles them as follows:*

<p><b>דפרעינהו</b> <b>בחובו</b> <b>אם עמד אינו חוזר</b> <i>If the מרע already spent the money to pay his debts, he cannot retract from the sale, because he apparently agreed to the sale regardless of whether he recovers or not.</i></p>	<p><b>דאיתנהו לזווי</b> <b>בעינייהו</b> <b>אם עמד חוזר</b> <i>If the מרע still has the original sale money, he can retract from the sale, because להכי שבקינהו</i> <b>חוזר אם אעמוד מחולי אחזירם</b> <i>He did not use the money intentionally, so that if he recovers he can return the money and void the sale.</i></p>
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2 The Gemara proceeds with another question  
איבעיא להו  
שכיב מרע שהודה מרע  
If a מרע admitted that his assets belong to another person, while it was well-known that these assets belong to the מרע and not to that person;  
Do we say  
שהוא אומר כן  
שלא להשביע את בניו  
The שכיב מרע, the admission was not sincere, and the שכיב מרע only said this so that his heirs do not appear wealthy. Therefore, פלוני does not acquire these assets.  
OR  
כיון דאודי אודי  
The שכיב מרע is considered sincere, and פלוני acquires the assets as a gift through the אודי of the מרע.

2

איבעיא לכו  
**שכיב מרע שהודה מרע**  
If a מרע admitted that his assets belong to another person, while it was well-known that these assets belong to the מרע and not to that person;  
*Do we say...*

<p><b>כיון דאודי אודי</b> <i>The שכיב מרע is considered sincere, and פלוני acquires the assets as a gift through the אודי of the מרע.</i></p>	<p><b>שהוא אומר כן</b> <b>שלא להשביע את בניו</b> <i>The שכיב מרע was not sincere, and the שכיב מרע only said this so that his heirs do not appear wealthy. Therefore, פלוני does not acquire these assets.</i></p>
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3 The Gemara brings proof that אודיתא is an effective קנין from the incident of איסור גיורא הוה ליה תריסר אלפי זוזי בי רבא the convert gave רבא twelve thousand Zuz for safekeeping and later fell ill. רבא assumed that when איסור dies, he can keep all the money, because דנכסי הגר דינן כהפקר When a גר dies, his assets become ownerless, and רבא will be the first to acquire the money that was already in his possession.

And although איסור did have a son, רב מרי, he was not an eligible heir, because הורתו שלא בקדושה ולידתו בקדושה He was conceived before איסור converted, and he is not considered his son.

Therefore, רבא concluded that the only possible solution would be as follows:

ולודי איסור דהלין זוזי דרב מרי נינהו וליקנינהו באודיתא

If איסור admits that the money belongs to מרי, רב מרי would then acquire the money as a gift through אודיתא.

This proves that אודיתא is an effective קנין.

3 The Gemara brings proof that אודיתא is an effective קנין

**איסור גיורא הוה ליה תריסר אלפי זוזי בי רבא**  
 איסור the convert gave Rava 12,000 Zuz for safekeeping and later fell ill.

רבא assumed that when איסור dies, he can keep all the money, because **דנכסי הגר דינן כהפקר**  
 When a גר dies, his assets become ownerless, and רבא will be the first to acquire the money that was already in his possession.

And although איסור did have a son, רב מרי, he was not an eligible heir, because

**הורתו שלא בקדושה ולידתו בקדושה**

He was conceived before איסור converted, and he is not considered his son.

Therefore, רבא concluded that the only possible solution would be as follows:  
**ולודי איסור דהלין זוזי דרב מרי נינהו וליקנינהו באודיתא**

If איסור admits that the money belongs to מרי, רב מרי would acquire the money as a gift through אודיתא. This proves that אודיתא is an effective קנין.

4 The Gemara elaborates that רב מרי could not acquire the money through any other קנין, as follows:

1.  
אי בירושה  
לאו בר ירושה הוא  
רב מרי could not acquire the money through inheritance,  
because he was not an eligible heir, as explained earlier.

2.  
אי במתנה  
מתנת שכיב מרע כירושה שווה רבנן  
מתנת שכיב מרע operates like a ירושה, and therefore  
כל היכא דאיתיה בירושה איתיה במתנה  
כל היכא דליתיה בירושה ליתיה במתנה  
Only an eligible heir can acquire through מרע שכיב מרע,  
but רב מרי who was not an eligible heir, could not acquire  
through מתנת שכיב מרע.

3.  
אי במשיכה  
ליתנהו גביה  
רב מרי could not actually take possession of the money,  
because the money was not in איסור's possession.

4 קנין מרי could not acquire the money through any other קנין,  
as follows:

1

**אי בירושה  
לאו בר ירושה הוא**

רב מרי could not acquire the money through inheritance,  
because he was not an eligible heir,  
as explained earlier.

2

**אי במתנה  
מתנת שכיב מרע כירושה שווה רבנן**

מתנת שכיב מרע operates like a ירושה,  
and therefore

כל היכא דאיתיה בירושה איתיה במתנה  
כל היכא דליתיה בירושה ליתיה במתנה  
Only an eligible heir can acquire through מרע שכיב מרע,  
but רב מרי who was not an eligible heir,  
could not acquire through מתנת שכיב מרע.

3

**אי במשיכה  
ליתנהו גביה**

רב מרי could not actually take possession of the money,  
because the money was not in איסור's possession.

5

4.  
אי בחליפין  
אין מטבע נקנה בחליפין  
He could not acquire it with קנין סודר, because money  
cannot be acquired through this type of קנין.

5.  
אי אגב קרקע  
לית ליה ארעא  
קנין אגב could acquire the money with אגב, together with  
land, because איסור did not own any land.

6.  
אי במעמד שלשתן  
אי שלח לי לא אזילנא  
He could not acquire the money in the presence of all  
three;  
איסור,  
רב מרי, and  
רבא;  
Because רבא would not cooperate and would refuse to  
come;

Therefore, the only solution was for איסור to transfer the  
money through אודיתא.

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5

4

### אי בחליפין אין מטבע נקנה בחליפין

He could not acquire it with קנין סודר,  
because money cannot be acquired through  
this type of קנין.

5

### אי אגב קרקע לית ליה ארעא

קנין אגב could acquire the money with אגב,  
together with land,  
because איסור did not own any land.

6

### אי במעמד שלשתן אי שלח לי לא אזילנא

He could not acquire the money in the presence of all three;  
איסור – רב מרי – רבא  
Because רבא would not cooperate  
and would refuse to come.



Therefore, the only solution was  
for איסור to transfer the money through אודיתא.

6 Regarding the Mishnah's Halachah of שייר קרקע כל שהוא מתנתו קיימת  
 The Gemara asks וכמה כל שהוא  
 What is the minimum amount of land that the מרע שכיב must keep in order for us to assume that he gave the gift unconditionally?

רב יהודה אמר רב says קרקע כדי פרנסתו מתנתו קיימת  
 He must keep an amount of land from which he can support himself. If he does, and then recovers, the מתנה is effective, because דאי קאי, סמיך עליה  
 His intentions were to support himself from this land, while the recipient keeps the מתנה.

רב ירמיה בר אבא adds מטלטלין כדי פרנסתו  
 Even if the מרע שכיב kept moveable assets in the amount from which he can support himself; If he recovers, the מתנה is effective, because דאי קאי סמיך עליה

רב יוסף however disagrees and says קרקע כל שהוא תנן  
 The Mishnah's wording of 'קרקע' implies only land, but not מטלטלין, and the word 'כל שהוא' implies that even a small amount less than כדי פרנסתו is considered a שיור.

6 שייר קרקע כל שהוא מתנתו קיימת  
 ?  
 וכמה כל שהוא  
 What is the minimum amount of land that the מרע שכיב must keep in order for us to assume that he gave the gift unconditionally?

רב ירמיה בר אבא מטלטלין כדי פרנסתו  
 Even if he kept moveable assets in the amount from which to support himself;

If he recovers, the מתנה is effective, because דאי קאי סמיך עליה

רב יבנדרה אמר רב קרקע כדי פרנסתו מתנתו קיימת  
 He must keep an amount of land from which he can support himself.

If he then recovers, the מתנה is effective, דאי קאי סמיך עליה  
 His intentions were to support himself from this land, while the recipient keeps the מתנה.

רב יוסף קרקע כל שהוא תנן  
 The Mishnah's wording of 'קרקע' implies only land, but not מטלטלין, and the word 'כל שהוא' implies that even a small amount less than כדי פרנסתו is considered a שיור.

7 The Gemara asks from a Mishnah where we find that the word קרקע refers even to מטלטלין?  
 The Gemara answers, that is because איידי דתנא רישא קרקע משום הכי קתני קרקע  
 In that Mishnah, the word קרקע was mentioned earlier. Therefore, the Mishnah chose to repeat the word קרקע, but it does not actually mean land.  
 However, in our Mishnah, the word קרקע is not mentioned earlier. Therefore, the word קרקע implies only land but not מטלטלין.


The Gemara also asks from another Mishnah where we find that even though the Mishnah uses the word כל שהוא, it does not mean any amount, but there is a minimum amount required?  
 The Gemara answers; That is because, since the earlier opinion there requires a large minimum, the other opinion which requires a much smaller minimum refers to it as כל שהוא.

7   
 The Gemara asks from a Mishnah where we find that the word קרקע refers even to מטלטלין?

### איידי דתנא רישא קרקע משום הכי קתני קרקע

In that Mishnah, the word קרקע was mentioned earlier. Therefore, the Mishnah chose to repeat the word קרקע, but it does not actually mean land.

In our Mishnah, the word קרקע is not mentioned earlier. Therefore, the word קרקע implies only land but not מטלטלין.

  
 The Gemara asks from another Mishnah where we find that even though the Mishnah uses the word "כל שהוא", it does not mean any amount, but there is a minimum amount required?

That is because, since the earlier opinion there requires a large minimum, the other opinion which requires a much smaller minimum refers to it as כל שהוא.