



בס"ד

Intro

Today we will Be"H learn ל"א סך מסכת בבא בתרא מסכת. Some of the topics we will learn about include:

מה לי לשקר

Also referred to as a

מיגו

Ordinarily, if one could have submitted a certain claim with which he would have won, he is believed with other claims as well. However, it is a מחלוקת if he is believed במקום עדים

When his claim is contradicted by witnesses;

טוען וחוזר וטוען

Whether one can change or add to his claim? This depends on whether

קבחיש קצת, he interprets his first claim, מכחיש לגמרי, he contradicts his first claim, or מוסף על דבריו, he adds to his first claim in a way that does not contradict it.



עדות מוכחשת

If contradictory witnesses are believed regarding other testimony, whether

עדות עדות, other parts of the same testimony, or אחתה אחרת, different testimony.

זילותא דבי דינא

Whether בית דין retracts their rulings, or if they are concerned with damaging their credibility?









So let's review...

The Gemara continues discussing several incidents of a disputed חזקה:

זה אומר של אבותי

וזה אומר של אבותי

Both the claimant and the occupant claimed to have inherited the property;

האי אייתי סהדי דאבהתיה היא

והאי אייתי סהדי דאכלה שני חזקה

The claimant brought witnesses that he inherited it, and the occupant brought witnesses that he established a חזקה:

רבה ruled that the occupant keeps the property, because מה לו לשקר

אי בעי א"ל

מינך זבנתה ואכלתיה שני חזקה

His claim of של אבותי is believed, because he could have used the חוקה to claim to have purchased it from the claimant, and he would have been believed and kept the property. Clearly, he is not lying, and he indeed inherited it.

However, אביי argued that the claimant gets the property, because $\ensuremath{\,^{\circ}}$

מה לי לשקר במקום עדים

לא אמרינן

This reasoning is not sufficient to support the claim of the occupant that של אבותי that he inherited it, because the claimant's witnesses, אייתי סהדי דאבהתיה אייתי, contradict this claim.

The Gemara relates the rest of the incident: As the מאביי explains, רבה accepted אביי's argument and ruled like אביי that the claimant gets the property. Incidents of a disputed יי... תזקה...

זה אומר של אבותי וזה אומר <u>של אבותי</u>

Both the claimant and the occupant claimed to have inherited the property

ודאי איינני סדדי

דאכלה שני חזקה

Occupant Witnesses that he established a תזקה ואי אייתי ספדי

דאבהתיה היא

Claimant: Witnesses that he inherited it



the occupant keeps the property

מה לו לשקו אי בעי א"ל

מינך זבנתה ואכלתיה שני חזקה

He could have used the חקה to claim to have purchased it from the claimant, and he would have been believed and kept the property

> Clearly, he is not lying, and he indeed inherited it



the claimant gets the property because

מה לי לשקר במקום עדים לא אמרינן

This reasoning is not sufficient because the claimant's witnesses contradict this claim



אביי accepted ייאל's argument and ruled like ייאל that the claimant gets the property







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Therefore, the occupant who lost revised his claim and said:

הדר א"ל

אין דאבהתך היא

וזבנתה מינך

The occupant admitted that he did not inherit it, but rather purchased it from the claimant, and explained

האי דאמרי לך דאבהתי

דסמיך לי עלה כדאבהתי

He only meant that he feels as secure in his claim as if he inherited it.

How to rule at this point is a מחלוקת:

עולא holds that the occupant keeps the property based on his revised claim of זבנתה מינך and שני חזקה, אייתי סהדי דאכלה שני חזקה, because

טוען וחוזר וטוען

He can submit a second claim, if it merely interprets the first:

The נהרדעי hold that the claimant gets the property, because $% \left(1\right) =\left(1\right) \left(1\right) +\left(1\right) \left(1\right) \left(1\right) +\left(1\right) \left(1\right) \left($

אינו טוען וחוזר וטוען

The occupant cannot submit a second claim









The Gemara lists several exceptions to which all agree: היכא דא"ל

של אבותי ולא של אבותיך אינו טוען וחוזר וטוען

If the occupant originally said, "I inherited the property, and you did not," he cannot change his claim and say that he purchased it, because this completely contradicts his original claim.

Also,

היכא דהוה קאי בי דינא ולא טען

ואתא מאבראי וטען

אינו חוזר וטוען

If he left the court and re-entered, he cannot change his claim, because

טענתיה אגמריה

We suspect someone outside taught him this new, false claim.

On the other hand,

היכא דאמר ליה

של אבותי שלקחוה מאבותיך

חוזר וטוען

If the occupant now claims that he inherited it, but his father bought it from the claimant's father, it is accepted, because he is not changing his claim at all, but merely explaining his first claim. Therefore, the Rashbam explains,

מה לו לשקר

אי בעי אמר

מינך זבינתיה

He could have used the חזקה to claim he bought it, and so he is believed.

Furthermore,

היכא דאישתעי מילי אבראי

ולא טעו

ואתא לבי דינא וטען

חוזר וטוען

If he made one claim outside of court, and an entirely different claim in court, it is accepted, because the claim in court is considered the first claim and the claim outside is not considered a claim at all, because

עביד איניש

דלא מגלי טענתיה אלא לבי דינא

People refrain from revealing their actual claim outside of court, so that the other party cannot prepare a rebuttal.

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The Gemara lists several exceptions to which all agree:

היכא דא״ל של אבותי ולא של אבותיך אינו טוען וחוזר וטוען

If the occupant originally said, "I inherited the property, and you did not," he cannot change his claim and say that he purchased it Because this completely contradicts



דהוה קאי בי דינא ולא טען ואתא מאבראי וטען אינו חוזר וטוען

If he left the court and re-entered, he cannot change his claim

Because ラウルさん ラッハリレ We suspect someone outsi taught him this new, false claim



חוזר וטועו

If he made one claim outside of court, and an entirely different claim in court, it is accepted







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Another incident: זה אומר של אבותי

וזה אומר של אבותי

Two parties claimed to have inherited a property;

האי אייתי סהדי דאבהתיה

ואכלה שני חזקה

והאי אייתי סהדי

דאכלה שני חזקה

One brought witnesses that he inherited it and that he used it for the last three years, and the other brought witnesses that HE used it for the last three years:

רב נחמן ruled אוקי אכילה לבהדי אכילה ואוקי ארעא בחזקת אבהתא

The testimony regarding the חזקה is contradictory and disregarded. Therefore, the property is given to the party who brought witnesses that he inherited it.

However, רבא argued הא עדות מוכחשת היא

Since the witnesses contradicted each other regarding the הזקה, they are both suspected of lying and therefore, no longer believed regarding the inheritance.

רב נחמן responded נהי דאיתכחש באכילתה באבהתא מי אתכחש

Although they are contradictory regarding the הזקה, they are not contradictory regarding the inheritance, and therefore believed regarding the inheritance.

Another incident...

זה אומר של אבותי וזה אומר של א<u>בותי</u>

Two parties claimed to have inherited a property

והאי אייתי סהדי

דאכלה שני חזקה

That HE used it for the last three years

האי אייתי סהדי

דאבהתיה ואכלה

שני חזקה

That he inherited it and that he used it for the last three years



The testimony regarding the minimis contradictory and disregarded.
Therefore, the property is given to the party who brought witnesses that he inherited it



However, בא argued הא עדות מוכחשת היא?

Since the witnesses contradicted each other regarding the תוקה, they are both suspected of lying and therefore, no longer believed regarding the inheritance



Although they are contradictory regarding the חזקה, they are not contradictory regarding the inheritance, and therefore believed regarding the inheritance







At first, the Gemara associates this מחלוקת with a parallel case:

ב' כתי עדים

המכחישות זו את זו

Regarding two pairs of contradictory witnesses:

אמר רב הונא

זו באה בפני עצמה ומעידה

וזו באה בפני עצמה ומעידה

Each pair, separately, can continue to testify regarding other matters.

ורב חסדא אמר

בהדי סהדי שקרי למה לי

They are each suspected of being false witnesses, and are no longer believed.

The Gemara at first suggests

לימא רב נחמן דאמר כרב הונא

ורבא כרב חסדא

רב נחמן agrees with רב הונא, while רבא rules like רב חסדא.









However, the Gemara says אליבא דרב חסדא כולי עלמא לא פליגי

רב חסדא, who, in that case, disqualifies their future testimony, will certainly not accept, in our case, their testimony regarding the inheritance.

However, the מחלוקת רב נחמן ורבא is according to the opinion of רב הונא:

רב נחמן כרב הונא

רב נחמן holds that רב הונא , who accepts their future testimony, would also accept their current testimony regarding the inheritance, in which they are not contradictory.

ורבא עד כאן לא קאמר רב הונא אלא לעדות אחרת אלא לעדות אחרת אבל לאותה עדות לא אבל לאותה עדות לא רבא holds that although רב הונא accepts their future testimony, he would not accept their current testimony regarding the inheritance, because it is part of their current, contradictory testimony.









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The Gemara relates the rest of the above incident of זה אומר של אבותי זה אומר של אבותי וזה אומר של אבותי וזה אומר של אבותי האי אייתי סהדי דאבהתיה ואכלה שני חזקה והאי אייתי סהדי והאי אייתי סהדי דאכלה שני חזקה דאכלה שני חזקה Truled אוקי אכילה לבהדי אכילה אוקי ארעא בחזקת אבהתא ואוקי ארעא בחזקת אבהתא בו ממן awarded the property to the one who brought witnesses that he inherited the property:

הדר אייתי סהדי דאבהתיה היא

The losing party then brought other witnesses that HE
inherited the property:

At this point רב נחמן ruled
אנן אחתיניה אנן מסקינן ליה
אנן אחתיניה אנן מסקינן ליה
לזילותא דבי דינא לא חיישינן
We now reverse our ruling and remove the property fr

We now reverse our ruling and remove the property from the winning party, and we are not concerned that people will mock בית דין for reversing their earlier ruling. And, the ownership of the property remains unknown, and as Tosfos says, we now rule כל דאלים גבר

The stronger party may seize it without interference from בית דין.









9 Now, רבא challenged this ruling from a Mishnah:

שנים אומרים מת

ושנים אומרים לא מת

שנים אומרים נתגרשה

ושנים אומרים לא נתגרשה

If two sets of witnesses contradict each other regarding a man's death or divorce, in order to allow his wife to remarry,

הרי זו לא תנשא

ואם נשאת לא תצא

The wife may not remarry, since her status is uncertain. However, if she did remarry, we do not compel her second husband to divorce her, as the Gemara in באומרת explains

ברי לי שמת בעלי

If she claims to be certain that her first husband died. However.

רבי מנחם ברבי יוסי אומר

בזמן שבאו עדים ואח"כ נשאת

תצא

If the witnesses first contradicted each other, and she then remarried unlawfully, she must get divorced from her second husband. However,

נשאת ואח"כ באו עדים

הרי זו לא תצא

If she remarried based on testimony of one set of witnesses, and then other witnesses contradicted her story, she does not need to get divorced, because חיישנין לזילותא דבי דינא

We are concerned with the disgrace בית דין, and do not issue a ruling retracting a previous ruling? This apparently contradicts רב נחכון, who ruled לא חיישנין לזילותא דבי דינא

Despite this challenge,

נפק עבד עובדא

רב נחמן acted according to his ruling, because תליא באשלי רברבי

He found many great Sages that supported his ruling.

The Gemara discusses their opinions at length in the next Daf.





