

A בס"ד

Intro

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

The Braisa's Halachah of

נתחלפו לו כלים בכלים בבית האומן

הרי זה ישתמש בהן

עד שיבא הלה ויטול את שלו

If someone gave his garment to an אומן for repair and the אומן returned to him another person's garment, he may wear the garment until he retrieves it, because

מדעת נתן לו

We assume the אומן intentionally gave it to him with the owner's permission.

בבית האבל או בבית המשתה

הרי זה לא ישתמש בהן

עד שיבא הלה ויטול את שלו

If two people mixed up their garments while in the home of a mourner or at a wedding celebration, one may not wear the other person's garment, because

שלא מדעת נתן לו

The garment was given to him without the owner's permission.

A

נתחלפו לו כלים בכלים בבית האומן
הרי זה ישתמש בהן
עד שיבא הלה ויטול את שלו
מדעת נתן לו

בבית האבל או בבית המשתה
הרי זה לא ישתמש בהן
עד שיבא הלה ויטול את שלו
שלא מדעת נתן לו

B

The tactics of

רמאי דפומבדיתא

The deceitful craftsmen in Pumpedisa would steal the garments given to them for repair, claiming it for a debt.

A continuation of the Mishnah's Halachah of

האריסין

אין להם חזקה

If a sharecropper took all the produce of the entire field for three consecutive years, this is not proof that he bought the field, because as the Gemara explains the Mishnah refers to

באריסי בתי אבות

A family of sharecroppers who worked in this field for many generations, and they are accustomed to work and take all the produce for three or more years at a time, and afterward the owner takes all the produce for the same amount of time.

Therefore, the owner can claim

לאריסות הורדתי

He is merely a sharecropper, and therefore I did not make a מחאה.

אריס שהוריד אריסין תחתיו

יש לו חזקה

If the אריס hired workers to do ALL the work instead of him, this is a proof that he bought the entire field.

However

אריס שחלק לאריסין

אין לו חזקה

If the אריס hired workers to work together with him, this is not proof that he bought the field.

The discussion regarding

אריס מעיד או אינו מעיד

Whether an אריס can testify on behalf of the owner that the field belongs to him?

B

רמאי
דפומבדיתא

האריסין
אין להם חזקה

אריס שהוריד אריסין תחתיו
יש לו חזקה

אריס שחלק לאריסין
אין לו חזקה

אריס מעיד או אינו מעיד

1 So let's review ...

The Gemara cites a Braisa

ת"ר נתחלפו לו כלים בכלים בבית האומן

הרי זה ישתמש בהן

עד שיבא הלה ויטול את שלו

If someone gave his garment to an אומן for repair and the אומן returned to him another person's garment, he may wear the garment until its owner retrieves it.

® ולא הוי שואל שלא מדעת

Although one may not use someone else's item without his knowledge and permission?

The Gemara explains that in this case it's permitted, because

אדם עשוי לומר לאומן מכור לי טליתי

We assume that the owner of the garment instructed the אומן to sell it, but the אומן accidentally sold this person's garment. Therefore, ®

נתן לו טלית זו מדעת עד שיחזור לו את שלו

The אומן intentionally gave him the other garment to use, until he recovers his garment. This is considered using it with the owner's permission. ®

1

בביתא

ת"ר

נתחלפו לו כלים בכלים בבית האומן
הרי זה ישתמש בהן
עד שיבא הלה ויטול את שלו

If someone gave his garment to an אומן for repair and the אומן returned to him another person's garment, he may wear the garment until its owner retrieves it.

ולא הוי שואל שלא מדעת

Although one may not use someone else's item without his knowledge and permission?

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נתן לו טלית זו מדעת עד שיחזור לו את שלו
The אומן intentionally gave him the other garment to use, until he recovers his garment.
This is considered using it with the owner's permission.

- 2 However, the Gemara makes the following two distinctions in qualifying the above ruling of הרי זה ישתמש בהן
1.
לא שנו אלא הוא
אבל אשתו ובניו לא
Only if the אומן, himself, gave him the wrong garment, he may use it, because we assume ®
מדעת נתן לו
But if the אומן's wife or son gave him the garment, he may not use it, because
איכא למימר מיטעה טעי
They may have simply erred, and he is a מדעת ®
2.
והוא נמי לא אמרן
אלא דא"ל טלית סתם
אבל טליתך לא
Only if the אומן told him to take "THE" garment, but did not specify "YOUR" garment, he may use it, because as the רשב"ם explains
להכי לא אמר לו טליתך
שאין זה שלו
The אומן deliberately did not state "your garment" because he knew that it belongs to someone else, and
מדעת נתן לו
But if the אומן did specify "YOUR garment", he may not use it, because
האי לאו טלית ידיה הוא
It is obvious that the אומן erred, since this is not his garment. ®
=====

- 2 הרי זה ישתמש בהן
- 1
לא שנו אלא הוא
אבל אשתו ובניו לא
Only if the אומן, himself, gave him the wrong garment, he may use it,
because we assume
מדעת נתן לו
But if the אומן's wife or son gave him the garment, he may not use it, because
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והוא נמי לא אמרן
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The אומן deliberately did not state "your garment" because he knew that it belongs to someone else, and
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But if the אומן did specify "Your garment" he may not use it, because
האי לאו טלית ידיה הוא
It is obvious that the אומן erred, since this is not his garment.



- 3 The Braisa continues:
בבית האבל או בבית המשתה
הרי זה לא ישתמש בהן
עד שיבא הלה ויטול את שלו
If two people mixed up their garments at the mourner's
home or at a wedding celebration, one may not wear the
other person's garment, because ®
שלא מדעת נתן לו
The garment was given to him without the owner's
knowledge, and
אסור להשתמש שלא מדעת
One may not wear someone else's garment without his
permission.
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- 3
- בבית האבל או בבית המשתה
הרי זה לא ישתמש בהן
עד שיבא הלה ויטול את שלו**
- If two people mixed up their garments at the mourner's
home or at a wedding celebration, one may not wear the
other person's garment,*
- Because*
שלא מדעת נתן לו
*The garment was given
to him without the owner's knowledge, and*
אסור להשתמש שלא מדעת
*One may not wear someone else's garment
without his permission.*



4 The Gemara proceeds with a discussion between אב"י and רבא regarding the dishonest tactics of רמאי דפומבדיתא

The deceitful craftsmen of Pumpedisa would steal garments given to them for repair, claiming them as payment for a debt.

אב"י describes the scenario:

א"ל הב לי סרבלאי

If the owner says, give me my garment, the אומן responds לא היו דברים מעולם

I never accepted your garment.

And even if the owner claims

הא אית לי סהדי דחזיוה גבך

I have witnesses who saw the garment in your possession.

The אומן responds

ההוא אחרינא הוה

They saw someone else's garment, but not yours.

And if the owner requests

אפקיניה ונחזינהו

Show me the garment to confirm that it is not mine.

The אומן responds

איברא לא מפיקנא ליה

I am not permitted to show you someone else's garment.

And as the רשב"ם explains

זהו הרמאות דשלא לשם שמים מתכוין

אלא לגנוב את טלית חבירו מתכוין

This is deceitful, as the אומן's intentions are not sincere.

He refuses to show the garment only because he intends to steal it.

4

רמאי דפומבדיתא

The deceitful craftsmen of Pumpedisa would steal garments given to them for repair, claiming them as payment for a debt.

אב"י describes the scenario:

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If the owner says, give me my garment,

The אומן responds
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I never accepted your garment.

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I have witnesses who saw the garment in your possession.

ההוא אחרינא הוה

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This is deceitful, as the אומן's intentions are not sincere.

He refuses to show the garment only because he intends to steal it.



5

הוא however said

שפיר קאמר ליה

ראה תניא

The אומן is permitted to say so, because only if the witnesses are sure that it is the claimant's garment in the אומן's possession, he is not believed, but here the עדים are not sure whether the garment belongs to the claimant or not.

אשי רב says

ואי חכים משוי ליה ראה

If the owner is clever he can convince the אומן to show him the garment before עדים as follows:

The owner tells him

אמאי תפיסת ליה

לאו משום דאית לך גבאי

You are withholding my garment because I owe you money. If so,

השתא אפקינהו ושימינהו

שקול את דידך ואשקול אנא דידי

Show me the garment so that we can assess its value, and you will collect your money, and I will take the rest. And

as the רשב"ם explains

כיון שיראהו יכול להוציאו ממנו

דאומן אין לו חזקה היכא דראה

Once the אומן shows the garment, the owner can extract the whole garment from him, because when עדים see the owner's garment in the אומן's possession, the אומן is not believed to claim of בידי, לקוחה היא בידי, I bought it, because he has no מיוג as he cannot claim לך החזרתיו, I already returned it to you.

However, if the אומן is equally clever, he responds

לא צריכנא לשומא דידך

כבר שמוה קמאי דקמן

I do not need you to assess the garment's value, as other's have already assessed it.

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5

רבא

שפיר קאמר ליה ראה תניא

The אומן is permitted to say so, because only if the witnesses are sure that it is the claimant's garment in the אומן's possession, he is not believed, but here the עדים are not sure whether the garment belongs to the claimant or not.

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Show me the garment so that we can assess its value, and you will collect your money, and I will take the rest.

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However, if the אומן is equally clever, he responds

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6

The Gemara continues with the Mishnah on מב דף

האריסין

אין להם חזקה

If a sharecropper took all the produce of the entire field for three consecutive years, it is not proof that he bought the field, because as the Gemara explains, the Mishnah refers to

באריסי בתי אבות

A family of sharecroppers who have worked in this field for many generations, and they are accustomed to take all the produce for three or more years at a time, and afterward the owner takes all the produce for the same amount of time. Therefore, the owner can claim

לאריסות הורדתי

He is merely a sharecropper, and therefore I did not make a מחאה.

However, as the רשב"ם explains;

שאר אריסין

יש להן חזקה

If a standard sharecropper who usually gets a percentage of the produce each year, and now he took all the produce for three consecutive years, this is proof that he bought the field, and the owner cannot claim

לאריסות הורדתי

Because

עד האידנא פלגא

והשתא כולה

This is unusual, and the owner should have made a מחאה.

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6

The Mishnah continues. . .

האריסין - אין להם חזקה

If a sharecropper took all the produce of the entire field for three consecutive years, it is not proof that he bought the field,

As the Gemara explains,

באריסי בתי אבות

A family of sharecroppers who have worked in this field for many generations, and they are accustomed to take all the produce for three or more years at a time, and afterward the owner takes all the produce for the same amount of time.

Therefore, the owner can claim

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He is merely a sharecropper, and therefore I did not make a מחאה.

שאר אריסין יש להן חזקה

If a standard sharecropper who usually gets a percentage of the produce each year, and now he took all the produce for three consecutive years, this is proof that he bought the field, and the owner cannot claim

לאריסות הורדתי

Because

עד האידנא פלגא - והשתא כולה

This is unusual, and the owner should have made a מחאה.



7

says רב נחמן

אריס שהוריד אריסין תחתיו

יש לו חזקה

If the אריס hired workers to do ALL the work instead of him, this is proof that he bought the entire field, because

דלא עביד אינש דנחתו אריסי לארעיה

ושתיק

If the אריס did not buy the field, the owner would certainly object to strange workers possibly ruining his field, and he should have made a מחאה.

However,

אריס שחלק לאריסין

אין לו חזקה

If the אריס hired workers to work together with him, this is not proof that he bought the field, because

אימור הרמניא בעלמא שויה

The owner does not mind the אריס taking on extra help, as he will ensure that they won't ruin the field, and therefore he did not make a מחאה.

=====

7

רב נחמן

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If the אריס hired workers to do ALL the work instead of him, this is proof that he bought the entire field, because

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If the אריס hired workers to work together with him, this is not proof that he bought the field, because

אימור הרמניא בעלמא שויה

The owner does not mind the אריס taking on extra help, as he will ensure that they won't ruin the field, therefore he did not make a מחאה.

8

The Gemara proceeds with a question regarding

אריס מעיד או אינו מעיד

Whether an אריס can testify on behalf of the owner that the field belongs to him?

says שמואל

אריס מעיד

The אריס can testify for the owner.

While a Braisa states

אריס אינו מעיד

The אריס cannot testify for the owner.

And the Gemara reconciles the two;

הא דאיכא פירא בארעא

אינו מעיד

If the owner owes the אריס produce, the אריס cannot testify, because he is נוגע בעדות. He benefits from his testimony in that he will receive his share, because if he does not testify and a third party wins the field, he will not receive his share.

הא דליכא פירא בארעא

מעיד

If the owner does not owe the אריס any produce, the אריס can testify, because he does not benefit from his testimony. Even if the third party wins the field and as a result the אריס loses his job, the אריס can always find work in another field.

8

אריס מעיד או אינו מעיד

Can an אריס can testify on behalf of the owner that the field belongs to him?

?

בריתא

אמורא

אריס אינו מעיד

אריס מעיד

הא דאיכא
פירא בארעא
אינו מעיד

If the owner owes the אריס produce, the אריס cannot testify, because he is נוגע בעדות. He benefits from his testimony in that he will receive his share, because if he does not testify and a third party wins the field, he will not receive his share.

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If the owner does not owe the אריס any produce, the אריס can testify, because he does not benefit from his testimony. Even if the third party wins the field and as a result the אריס loses his job, the אריס can always find work in another field.