



בס"ד

#### Intro

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

# The question of תבעו לאחר זמן

ואמר לו פרעתיך בתוך זמני מהו

If a person loaned someone money for a set time, and AFTER the due date the מלום claimed that the did not pay yet, while the לוה claims he paid BEFORE the due date, is the die believed or not?

The Machlokes in the Mishnah's Halachah of סמך לו כותל אחר מגלגלין עליו את הכל

If a wall that separated two yards collapsed, then one owner rebuilt the wall higher than four אמות, and the second owner built an adjacent wall on his property that was the height of the first wall, the second owner is obligated to pay the first owner for the entire wall even for the extra height, because as Rashi explains דגלי דעתיה דניחא ליה בהגבהה ההאיך

It is apparent that the second owner wants to benefit from the extra high wall, to support a roof.

רב הונא says סמך לפלגא סמך לכולה

Even if the second wall was shorter than the first wall in height or in length, the second owner must still pay for the entire wall

While רב נחמן says למאי דסמך סמך למאי דלא סמך לא סמך למאי דלא סמך לא סמך

The second owner pays only for the portion of the first wall that was the size of his wall, but he does not pay for the portion that exceeds the size of his wall.

#### Several Halachos regarding

חזקת תשמישין

If a person uses his neighbor's property on an ongoing basis, he is believed to claim,

מכר לי או נתן לי במתנה

My neighbor sold me this right, or gave me permission to do so, because

לא שביק איניש לאישתמושי בתוך שלו בלא רשותו

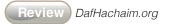
A person would not allow such usage without permission, and the neighbor should have objected.







Dedicated By: \_





The obligation to build a wall in the cases of

שני בתים בשני צדי רשות הרבים

Two houses facing each other across a public area;

2.

גג הסמוך לחצר חבירו

A person's roof thatis adjacent to his neighbor's yard

3.

The Machlokes regarding

בין גג לגג

The roofs of two houses adjacent to each other;

4.

שתי חצרות זו למעלה מזו

Two yards one higher than the other









So let's review ...

The Gemara in the previous Daf concluded that the Halachah follows the opinion of ריש לקיש regarding הקובע זמן לחבירו

ואמר לו פרעתיך בתוך זמני

אינו נאמן

If a person loaned someone money for a set time, and the claims that he paid up before the due date, the לוה is not believed, because

חזקה לא עביד איניש דפרע בגו זימניה

A person does not pay a loan before it is due.

The Gemara proceeds with a question in a similar case: איבעיא להו תבעו לאחר זכון

ואמר לו פרעתיך בתוך זמני מהו

If the מלוה only asked for the money AFTER the due date and claims that the לוה did not pay yet, while the לוה claims he already paid BEFORE the due date;

Do we say

נאמן

The לוה is believed, because he has a מיגו;

He could have presented a superior claim that he paid אחר זכון, AFTER the due date, for which he would be believed:

Instead he made an inferior claim that he paid תוך זמן, BEFORE the due date;

This proves that he must be stating the truth; and במקום חזקה

אמרינן מה לי לשקר

The מיגו can override even

the חזקה of לא עביד איניש דפרע בגו

OR

אינו נאמן

The לוה is not believed, even though he has a מיגו, because במקום חזקה

לא אמרינן מה לי לשקר

The מיגו cannot override

the חזקה of לא עביד איניש דפרע בגו

The Gemara attempts to bring proof from our Mishnah but the question remains unresolved.

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The previous Mishnah taught the Halachah of סמך לו כותל אחר סמך לו כותל אחר אע"פ שלא נתן עליו את התקרה מגלגלין עליו את הכל

If the second owner built an adjacent wall equal to the height of the first wall, even if he did not yet place beams over both walls, he is obligated to pay the first owner for the extra height, because as Rashi explains; דגלי דעתיה דניחא ליה בהגבהה דהאיך

It is apparent that the second owner wants to benefit from the extra height of the wall to support his roof.

#### The Gemara cites a Machlokes:

רב הונא says סמך לפלגא סמך לכולה

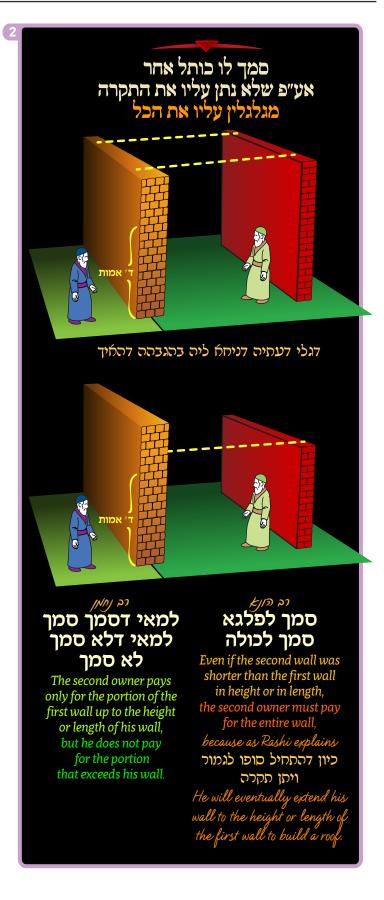
Even if the second wall was shorter than the first wall in height or in length, the second owner must still pay for the entire wall, because as Rashi explains

כיון דהתחיל סופו לגמור ויתן תקרה

The second owner will eventually extend his wall to the height or length of the first wall to build a roof.

רב נחמן says למאי דסמך סמך למאי דלא סמך לא סמך

The second owner pays only for the portion of the first wall up to the height or length of his wall, but he does not pay for the portion that exceeds his wall.









ומודה רב הונא בקרנא ולופתא

> As Rashi explains, רב הונא agrees that he does not pay for the remainder of the first wall in a case where the first wall was built perpendicular to the end of the second owner's house so that it creates a corner, and the second owner then built his wall further back, perpendicular to the first wall, so that it creates an extension to his house. He does not pay for the entire first wall, because שאין בנין כזה עשוי לימשך

The second wall will not be extended further.

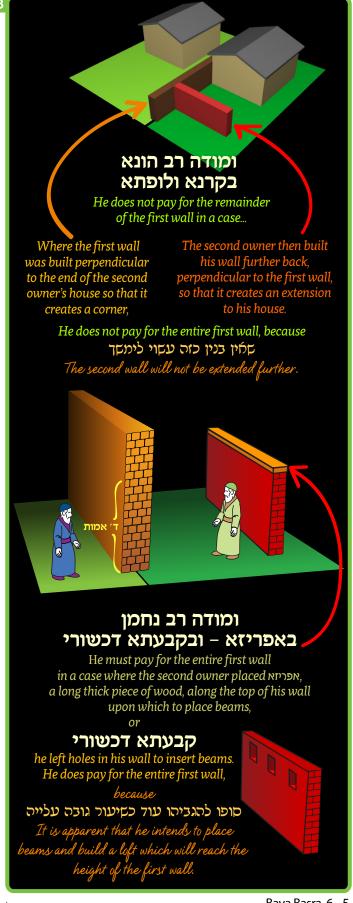
ומודה רב נחמן

באפריזא ובקבעתא דכשורי

רב נחמן agrees that he must pay for the entire first wall in a case where the second owner placed אפריזא, a long thick piece of wood, along the top of his wall upon which to place beams, or קבעתא דכשורי, he left holes in his wall to insert beams.

He does pay for the entire first wall, because ייה עלייה (R.) סופו להגביהו עוד כשיעור גובה עלייה

It is apparent that he intends to place beams and build a loft which will reach the height of the first wall.











The Gemara proceeds with several Halachos of what Rashi describes as

חזקת תשמישין

If a person uses his neighbor's property on an ongoing basis, he is believed to claim,

מכר לי או נתן לי במתנה (R.)

My neighbor sold me this right, or gave me permission to do so, because

רשותו בלא רשותו לאישתמושי בתוך שלו בלא רשותו (R.)

A person would not allow such usage without permission, and the neighbor should have objected.

1.

רב נחמן says אחזיק להורדי לא אחזיק לכשורי

If a person was given permission to place light beams upon someone else's wall, he may not place heavy beams on the wall. However

לכשורי

אחזיק להורדי

If he was given permission to place heavy beams, he may place light beams on the wall.

רב יוסף says אחזיק להורדי אחזיק לכשורי

Even if he was only given permission to place light beams, he may also place heavy beams on the wall.

#### חזקת תשמישין

If a person uses his neighbor's property on an ongoing basis, he is believed to claim, מכר לי או נתן לי בממנה

My neighbor sold me this right, or gave me permission to do so, because

לא שביק איניש לאישתמושי בחור שלו בלא רשותו

A person would not allow such usage without permission and the neighbor should have objected.



אחזיק להור

לא אחזיק לכשורי

If a person was given permission to place light beams upon someone else's wall, he may not place heavy beams on the wall.

### לכשורי – אחזיק להורדי

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אחזיק להורדי – אחזיק לכשורי

Even if he was only given permission to place light beams, he may also place heavy beams on the wall.



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2. Similarly, רב נחמן says אחזיק לנטפי אחזיק לשפכי

If a person was given permission for the rain water to drip off his entire roof into someone else's yard, he may build a gutter over the yard, because as Rashi explains דהא עדיפא ליה לבעל החצר

The gutter benefits the owner of the yard, because the water flows down only in one area. However אחזיק לשפכי לא אחזיק לנטפי

If he was only given permission to build a gutter, he may not allow the water to drip off his entire roof.

רב יוסף says אפילו אחזיק לשפכי אחזיק לנטפי

Even if he was only given permission to build a gutter, he may allow the water to drip off his entire roof.

#### יה אחזיק לנטפי אחזיק לשפכי אחזיק לנטפי אחזיק לשפכי

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# אפילו אחזיק לשפכי אחזיק לנטפי

Even if he was only given permission to build a gutter, he may allow the water to drip off his entire roof.

**6** 3

איכא דאמרי אמר רב נחמן אבל לצריפא דאורבני לא

He may not allow for the water to drip from a hut with a roof made of branches of ערבות, because there's too much water.

While רב יוסף says אפילו צריפא דאורבני



איכא דאמרי - אמר וב נחמן

אבל לצריפא דאורבני לא

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אפילו צריפא דאורבני







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4.

רב נחמן אמר רבה בר אבוה says המשכיר בית לחבירו בבירה גדולה משתמש בזיזיה ובכתליה עד ד' אמות

If a person rented an apartment in a large building, he may use the protrusions and holes of the outside wall within four אמות of his apartment.

ובעובי הכותל במקום שנהגו

And he may use the top of the wall, where the custom was so.

אבל בתרבץ אפדני לא

He may not use the walls in the garden near the entranceway, because

שאינו עשוי ליכנס לתוכו

He was not given permission since people usually do not go there.

While רב נחמן says אפילו בתרבץ אפדני אבל רחבה שאחורי הבתים לא

He may use even the walls in the garden, but not the area behind the house.

While רבא says אפילו רחבה שאחורי הבתים אפילו רחבה שאחורי he may use even the area behind the house. 4

חבל וחון אור ובה בו אבוה

## המשכיר בית לחבירו בבירה גדולה משתמש בזיזיה ובכתליה עד ד' אמות

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And he may use the top of the wall, where the custom was so.

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אפילו רחבה שאחורי הכתים

He may use even the area behind the house

11/01/20

אפילו בתרבץ אפדני אבל רחבה שאחורי הבתים לא

He may use even the walls in the garden, but not the area behind the house.



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רבינא says

האי כשורא דמטללתא

If a person built a roof on someone else's wall, it depends; עד תלתיו יומין לא הוי חזקה

Within thirty days we do not assume that he was given permission, because

בי לא קפיד איניש ולא מחי (R.)

The owner does not mind.

בתר תלתין יומין הוי חזקה

If it was more than thirty days, we do assume that he was given permission, because given permission, because (R.)

The owner does mind, and he should have objected.

ואי סוכה דמצוה היא

If the roof was built to fulfill the Mitzvah of Sukkah, עד שבעה יומיו לא הוי חזקה

Within the seven days of Sukkos we do not assume that he was given permission, because א קפיד איניש ולא (R.)

However

בתר שבעה יומין הוי חזקה

After the seven days of Sukkos, we do assume that he was given permission because given because (R.)

ואי חבריה בטינא לאלתר הוי חזקה

And if he cemented the roof, we immediately assume that he was given permission.

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KIPA

#### האי כשורא דמטללתא

If a person built a roof on someone else's wall, it depends;

### עד תלתין יומין לא הוי חזקה

Within thirty days we do not assume that he was given permission,

because

לא קפיד איניש ולא מחי

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הוה ליה למחויי

The owner does mind, and he should have objected.

#### ואי סוכה דמצוה היא

If the roof was built to fulfill the Mitzvah of Sukkah,

# עד שבעה יומין לא הוי חזקה

Within the seven days of Sukkos we do not assume that he was given permission,

becaure

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And if he cemented the roof, we immediately assume that he was given permission.



Dedicated By: \_\_\_



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The Gemara returns to the topic of שני בחים בשני צדי רשות הרבים שני בחים בשני צדי רשות הרבים דעוי בחים בשני צדי רשות הרבים דעוי באס houses facing each other across a public area; זה עושה מעקה לחצי גגו זה עושה מעקה לחצי גגו וזה עושה מעקה לחצי גגו הומעדיף וזה שלא כנגד זה ומעדיף Each person builds a wall on a little more than half the width of his roof until they overlap, to prevent one from looking into the other's roof.

היזק ראיה
שני בתים בשני צדי רשות הרבים
Two houses facing each other across a public area;

זה עושה מעקה לחצי גגו
וזה עושה מעקה לחצי גגו
בגג זה ומעדיף
דה שלא כנגד זה ומעדיף
בach person builds a wall
on a little more than half the width of his roof
until they overlap,
to prevent one from looking into the other's roof.

רב נחמן אמר שמואל says גג הסמוך לחצר חבירו עושה לו מעקה גבוה ד' אמות עושה לו מעקה גבוה ד' אמות If someone's roof is adjacen

If someone's roof is adjacent to his neighbor's yard, he must build a wall four אמות high, because בחצר קביע תשמישתא

People regularly use their yards, and there is a concern for הייק ראיה.

אבל בין גג לגג לא

If his roof is adjacent to his neighbor's roof, he does not need to build a wall, because

בגג לא קביעא תשמישתא

People do not regularly use their roofs, and there is no concern for היזק ראיה.











While רב נחמן holds

בין גג לגג

אינו זקוק לד' אמות

אבל זקוק למחיצת עשרה

He only does not need to build a wall four אמות high, but he does need to build a wall ten טפחים high, because לנתפס עליו כגנב

So that if one trespasses it will be assumed that he came to steal.

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איתמר שתי חצרות זו למעלה מזו

If there were two yards one higher than the other;

אמר רב הונא

תחתון בונה מכנגדו ועולה

The lower yard pays for the lower portion of the dividing wall.

ועליון בונה מכנגדו ועולה

The upper yard pays for the upper portion of the dividing wall.

ורב חסדא אמר

עליון מסייע מלמטה ובונה

The upper yard must also pay for the lower portion of the dividing wall, because it supports his wall.





