

A בס"ד

Intro

Today we will Be"H learn ק"ט of דף קט of מציעא בבא. Some of the topics we will learn about include:

המקבל שדה לשנים מועטות

The limited rights of a tenant who leases a property for only a few years;

שבח שקמה

Whether a tenant has the rights to improvements to the property that he cannot take with him;

יובל אפקעתא דמלכא

Whether the obligation to return land to its original owner during the Yovel year also applies to improvements to the land;

The Gemara issues several rulings regarding a שתלא

Someone who agrees to plant a vineyard in another's property and to become the permanent sharecropper in exchange for ½ the crop;

שתלא דשכיב

Whether the arrangement is terminated upon his death;

A

המקבל שדה
לשנים מועטות

שבח שקמה

יובל אפקעתא דמלכא

שתלא

שתלא דשכיב

B

אי מפסדינא מסלקנא

If he agreed to give up his rights if he causes a loss;
שתלא דבעי לאסתלוק

If he wishes to terminate his arrangement; and

יבש בזמנו ושלא בזמנו

If the vines withered at an expected or unexpected age;

B

אי מפסדינא מסלקנא

שתלא דבעי לאסתלוק

יבש בזמנו
ושלא בזמנו

1 So let's review...

Zugt di Mishnah

המקבל שדה מחבירו לשנים מועטות

If one leases a field for a period of less than seven years;

לא יזרענה פשתן

He may not plant flax, because it depletes the soil for seven years.

ואין לו בקורות שקמה

He is not entitled to cut branches of any sycamore trees for beams, because they take seven years to grow back.

Rashi explains;

לא מיתוקמא אלא בחכירות

דאי בקבלנות מאי דבעי ליזרע

שהרי הבעלים חולקים בו

The Mishnah can only be referring to a field leased for a set price, and so he cannot take advantage of the owner.

However, a sharecropper can plant whatever he wants, because the owner shares in the profits.

The Mishnah continues, however,

קיבלה הימנו לז' שנים

שנה ראשונה יזרענה פשתן

ויש לו בקורות שקמה

If he leased the property for seven years, he may plant flax and cut the branches of the trees in the first year of his lease, because it will regenerate by the time he returns the property.

1

מלך

המקבל שדה מחבירו לשנים מועטות

If one leases a field for a period of less than seven years;

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If he leased the property for seven years, he may plant flax and cut the branches of the trees in the first year of his lease, because it will regenerate by the time he returns the property.



2 The Gemara cites a מחלוקת regarding the tenant's rights in the property:

אמר אביי
בקורות שקמה אין לו
בשבח שקמה יש לו

He may not cut down the branches, but he is compensated by the owner for the increased value of the trees as a result of their growth during his occupancy.

רבא אמר
אפילו בשבח שקמה נמי אין לו
He is not compensated for the tree's increased value.

The Gemara cites a ברייתא which seems to support אביי:

המקבל שדה מחבירו
והגיע זמנו לצאת
שמין לו

When a tenant returns a leased property, we assess its value. Apparently
שמין לו בשבח שקמה
We assess the increased value of the trees?

The Gemara answers that according to רבא we must say

שמין לו ירקא וסילקא
בדלא מטא יומא דשוקא

We assess the value of vegetables that he did not want to pick because the market day did not yet arrive, and they certainly belong to the tenant.

2

רבא אמר

אפילו

בשבח שקמה
נמי אין לו

He is not
compensated
for the tree's
increased value.

אמר אביי

בקורות שקמה
אין לו
בשבח שקמה
יש לו

He may not cut down
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ברייתא

המקבל שדה מחבירו
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We assess the value of vegetables that he did not yet pick
because the market day did not yet arrive,
and they certainly belong to the tenant.

3 The Gemara cites another ברייתא, and amends it as follows:
 הלוקח שדה מחבירו
 והגיע יובל
 שמין לו
 We evaluate a sold property when returning it to its original owner during the Yovel year.
 The Gemara points out that this cannot be referring to ירקא וסילקא
 Because
 ביובל הפקידא הוא
 Vegetables are ownerless during the Yovel year.
 Rather, the ברייתא must be referring to שבח שקמה
 The value of the trees;
 And states that the buyer receives a share of their value;
 Similarly, a tenant should receive a share of the improvements?

The Gemara answers
 התם זביני מעליא הוא
 ויובל אפקעתא דמלכא היא
 This is only true regarding sold property, because the buyer acquired the land and therefore the שבח as well.
 However, the Torah did not obligate him to return the שבח, because the Pasuk of Yovel states;
 ויצא ממכר בית
 ממכר חוזר
 שבח אינו חוזר
 The buyer returns only the original property, not the improvements to the property.

However,
 הכא קבלנות
 In our case, he merely leased the field, and according to רבא, this does not entitle him to the שבח.
 =====

3

ברייתא

הלוקח שדה מחבירו והגיע יובל שמין לו

We evaluate a sold property
when returning it to its original owner
during the Yovel year.

Rather, the ברייתא must be referring to שבת שקמה
The value of the trees;
And states that the buyer receives a share of their value;
Similarly, a tenant should receive a share of the improvements.

This cannot be referring to ירקא וסילקא
Because ביובל הפקידא הוא
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מאכר חוזר - לבח אינו חוזר

The buyer returns only the original property,
not the improvements to the property

However,
הכא קבלנות
In our case, he merely leased the field,
and according to רבא,
this does not entitle him to the שבח.

4

The Gemara records an incident
רב פפא קביל ארעא לאספסתא
קדחו בה תאלי
רב פפא leased land to plant a grain used for animal fodder,
and trees sprouted on the property.
כי קא מסתלק אמר להו הבו לי שבחא
When the lease expired, he demanded the increased value
of the property due to the saplings.

Apparently,
כאביי דאמור
בשבח שקמה יש לו
He agreed with אביי, and held that the tenant is entitled to
the שבח.

However, the Gemara explains
אפילו תימא כרבא
התם לית ליה פסידא
הכא איכא פסידא
Even according to רבא, in this case he is entitled to
compensation, because he lost the ability to plant on that
spot.
And the Gemara discusses the amount of compensation.
=====

4

**רב פפא קביל ארעא לאספסתא
קדחו בה תאלי**
רב פפא leased land to plant a grain used for animal fodder,
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He agreed with אביי,
and held that the tenant is entitled to the שבח.

אפילו תימא כרבא
**התם לית ליה פסידא
הכא איכא פסידא**
In this case he is entitled to compensation,
because he lost the ability to plant there.
And the Gemara discusses
the amount of compensation.



5

A related incident:

רב ביבי בר אביי קביל ארעא

ואהדר ליה משוניתא

קדחו ביה זרדתא

An outcropping of stone surrounded the field, and sorb trees grew there.

כי קא מיסתלק אמר להו הבו לי שבחאי

When the lease expired, he demanded the value of the trees.

However, רב פפי argued

מאי פסידא אית לך

You are not entitled to compensation, because you had no loss, since you would not have planted anything in that area because of the stones.

=====

5

רב ביבי בר אביי קביל ארעא

ואהדר ליה משוניתא

קדחו ביה זרדתא

*An outcropping of stone surrounded the field,
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כי קא מיסתלק אמר להו

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*When the lease expired,
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6 The Gemara now issues several rulings regarding a שתלא
 Someone who agrees to plant a vineyard in another's property and to become the permanent sharecropper in exchange for 1/2 the crop;

1.
 אמר רב יהודה rules
 האי שתלא דשכיב יורשים דיליה מסתלקין להו
 A landowner can terminate the arrangement with a planter's heirs. However, they must be compensated for שבחא, the improvements.

2.
 ההוא שתלא דאמר להו אי מפסדינא מסלקנא
 If a planter agreed to terminate his arrangement if he causes a loss; and as Rashi explains;
 מיהו אכתי הוה שבחא Some of the improvement remained;
 There's a Machlokes;
 אמר רב יהודה מסתלק בלא שבחא
 Because רב יהודה understands his words as ומיסתלקנא דקאמר בלא שבחא קאמר
 I will leave without any compensation.
 However, רב כהנא אמר מסתלק ושקיל שבחא
 Because רב כהנא understands his words as דה"ק אי מפסדינא מסתליקנא על כרחי ושקילנא מאי דאשבחי (e.r.)
 I will leave, but I will take the portion of שבח to which I'm entitled.

6

שתלא
 Someone who agrees to plant a vineyard in another's property and to become the permanent sharecropper in exchange for 1/2 the crop;

1
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 As Rashi explains;
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 Some of the improvement remained;

<p>רב כהנא אמר מסתלק ושקיל שבחא רב כהנא understands his words as דה"ק אי מפסדינא מסתליקנא על כרחי ושקילנא מאי דאשבחי I will leave, but I will take the portion of שבח to which I'm entitled.</p>	<p>אמר רב יהודה מסתלק בלא שבחא רב ירמיה understands his words as ומיסתלקנא דקאמר בלא שבחא קאמר I will leave without any compensation.</p>
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7 However,
 אי אמר אי פסידנא
 מסתלקנא בלא שבחא
 מסתלק בלא שבחא
 If he explicitly stipulated that he will leave without any
 compensation, even רב כהנא agrees that he gets nothing.

However, רבא maintains

אסמכתא היא

ואסמכתא לא קניא

In both cases he gets his share in the remaining שבח,
 because this is an אסמכתא, a commitment made to
 guarantee one's reliability, and it is not binding, because
 he was not sincere, since he thought that it would never
 happen.

7
 However,
 אי אמר
 אי פסידנא מסתלקנא בלא שבחא
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 a commitment made to guarantee one's reliability,
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 since he thought that it would never happen.

8 3.
 רבא rules
 כל פסידא דלא הדר
 Any profession where one can cause irreversible harm,
 such as:
 מקרי דרדקי, a schoolteacher;
 שתלא, a planter;
 טבחא, a butcher;
 אומנא, a Mohel;
 וספר מתא, or a town scribe;
 כולן כמותרין ועומדין דמי
 They are all considered forewarned, and if they cause a
 loss, they are dismissed without notice.

8
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 They are all considered forewarned,
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9

4. באתרא דשקיל שתלא פלגא ואריסא תילתא
In a place where planters receive $\frac{1}{2}$ the crop, and sharecroppers receive $\frac{1}{3}$;

רבי אשי ruled
האי שתלא דבעי לאסתלוקי
A planter who wishes to terminate his arrangement, יהבינן ליה שבחא ומסלקינן ליה
כי היכי דלא נמטייה הפסד לבעל הבית
He receives a portion of the field's increased value; however, in such a way that the owner does not suffer a loss; namely,
השתא בעי למיתב מנתא לאריסא
Since the owner must give $\frac{1}{3}$ of the crop to a sharecropper to do the work the planter was doing,

ריבעא דהוא דנקא
He receives $\frac{1}{4}$ of the owner's remaining $\frac{2}{3}$, which is a $\frac{1}{6}$ of the total crop. In this way, the owner still gets his half.

9

4
באתרא דשקיל שתלא פלגא
ואריסא תילתא

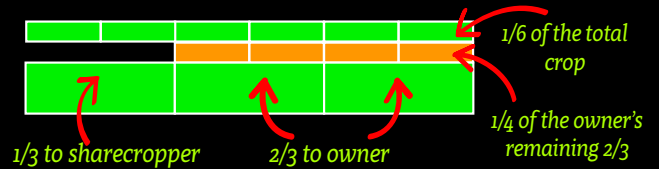
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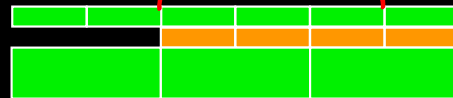
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In this way, the owner still gets his half.



9 However, רב אחא asked
 ריבעא ממש
 He should receive $\frac{1}{4}$ of the total crop, because he can argue
 אנת מנתא דילך הב ליה לאריסא
 ונאנא מנתא דילי מאי דבעינא עבידנא ביה
 Leave my section fallow. Therefore, you will only hire a sharecropper for your $\frac{3}{4}$ of the vineyard, and after the אריס takes his $\frac{1}{3}$, you will be left with your $\frac{1}{2}$ as when I was here.
 Rashi explains
 קבולי קיבלה
 רב אחא accepted his argument, and reversed his ruling.

5.
 The Gemara rules
 קופא סבא פלגא
 If the vines aged and withered, their arrangement is terminated, because there are no vines left to cultivate; and the planter receives $\frac{1}{2}$ of them, because this is the normal process, and so the wood is considered produce.
 However,
 שטפה נהרא ריבעא
 If the vineyard was flooded, the planter receives only $\frac{1}{4}$ of vines, because this is not a natural occurrence, and is comparable to improvements, of which we said earlier that he gets $\frac{1}{4}$.

9

?

רב אחא

ריבעא ממש

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 ונאנא מנתא דילי מאי דבעינא עבידנא ביה**

Leave my section fallow.
Therefore, you will only hire a אריס / sharecropper for your $\frac{3}{4}$ of the vineyard, and after the אריס takes his $\frac{1}{3}$, you will be left with your $\frac{1}{2}$ as when I was here.

My section

fallow			
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↑

1/3 sharecropper The owner still gets his half

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קבולי קיבלה
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קופא סבא פלגא

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10

6.
 ההוא גברא
 דמשכין פרדיסא לחבריה לעשר שנין
 Someone mortgaged his vineyard with the understanding
 that his creditor would eat the produce for ten years as
 payment for the loan;
 וקש לחמש שנין
 The vines aged and withered after five years.
 If
 יבש בזמנו
 It dried up at a normal, expected age,
 אביי אמר
 פירא הוי
 The vines themselves are also produce, and the creditor
 takes them as payment.
 רבא אמר
 קרנא הוי
 וילקח בו קרקע
 והוא אוכל פירות
 The vines are principal. Therefore, they are sold,
 reinvested, and the creditor continues to eat their produce.
 However, if
 יבש שלא בזמנו
 It dried up before its expected time, everyone agrees
 קרנא הוי
 וילקח בו קרקע
 והוא אוכל פירות
 The wood is considered principal.

10

6

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