

**A** ט"ד

Intro

Today we will Be"H learn כ' דף כ of מציעא בבא מציעא.  
Some of the topics we will learn about include:

The Gemara discusses several means of identifying documents, including:

חפיסה או דלוסקמא  
If they were found in a container that can be identified;

תכריך ואגודה  
If they were found rolled or bound together.

The Gemara explains that

קשר סימן

He can identify the type of knot, OR

דרמו אהדדי

The unique way they are rolled together.

**A**

חפיסה או דלוסקמא

תכריך ואגודה

קשר סימן

דרמו אהדדי

**B** א' הלוה משלשה  
'ושלשה שלוו מא'

If all three documents were from the same borrower, or the same lender, they are returned to him, because they obviously were in his possession.

סמפון

The Gemara discusses whether to assume that a receipt was used and the loan paid, in a case of

מצא בין שטרותיו

A third party found the receipt among his documents, and does not remember who gave it to him;

Or

מצא ביד מלוה

It was found in the possession of the creditor.

**B**

א' הלוה משלשה  
ושלשה שלוו מא'

סמפון

מצא בין שטרותיו

מצא ביד מלוה

**1** So let's review...  
 Zugt di Mishnah  
 מצא איגרות שום  
 If one finds documents recording a property for seizure;  
 ואיגרות מזון  
 OR documents recording a husband's commitment to support his stepdaughter;  
 שטרי חליצה ומיאונין  
 OR documents recording that a *במה* performed a *חליצה*, and that she may remarry;  
 OR a *מיאון*, whereby a minor girl nullifies her marriage;  
 ושטרי בירורין  
 Referring to either  
 שטרי טענתא  
 Documents recording a claim in בית דין, or  
 זה בורר לו אחד  
 וזה בורר לו אחד  
 An agreement between the litigants as to the makeup of a בית דין;  
 The Mishnah continues  
 וכל מעשה ב"ד  
 Or documents recording an act of בית דין, *הרי זה יחזיר*  
 הרי זה יחזיר  
 He returns these documents.

**2** The Mishnah continues  
 מצא בחפיסה או בדלוסקמא  
 If the document was found in an identifiable jug or box;  
 OR  
 תכריך של שטרות  
 או אגודה של שטרות  
 Or if several documents were rolled or bound together,  
 הרי זה יחזיר  
 They are returned.

The Mishnah explains  
 וכמה אגודה של שטרות  
 שלשה קשורין זה בזה  
 A bundle consists of at least three documents tied together.

However, as Rashi points out,  
 כולי עלמא כרכי  
 שטרא שטרא לעצמו  
 וקושרין אותן יחד  
 Documents are usually rolled separately, and then tied together; and so this arrangement cannot serve as a *סימן*, an identifying characteristic by which one returns them?

Therefore, the Gemara infers  
 קשר סימן  
 The specific type of knot used to tie the bundle serves as a *סימן*.

Alternately, the Mishnah refers to  
 שלשה כרוכין זה בזה  
 Three documents rolled together.  
 And this unusual arrangement is a sufficient *סימן*.

**1**

**מצא... מציאת**

<b>שטרי חליצה ומיאונין</b>	<b>ואיגרות מזון</b>	<b>איגרות שום</b>
Documents recording that a <i>במה</i> <i>דידא</i> <i>יבמה</i> , and she may remarry; or a <i>מיאון</i> , whereby a minor girl nullifies her marriage;	Documents recording a husband's commitment to support his stepdaughter;	If one finds documents recording a property for seizure

**ושטרי בירורין**

Referring to either...

<b>זה בורר לו אחד</b>	<b>שטרי טענתא</b>
An agreement between litigants as to the makeup of a בית דין	Documents recording a claim in בית דין

**וכל מעשה ב"ד**

Or documents recording an act of בית דין, *הרי זה יחזיר*

**הרי זה יחזיר**

He returns these documents.

**2**

**מצא... מציאת**

<b>תכריך של שטרות</b>	<b>בחפיסה או בדלוסקמא</b>
If several documents were rolled or bound together	If the document was found in an identifiable jug or box

**הרי זה יחזיר**

They are returned.

**וכמה**

**אגודה של שטרות**

**אלה קלוין צב קב**

A bundle consists of at least three documents tied together.

**?**

Rashi points out, כולי עלמא כרכי שטרא שטרא לעצמו וקושרין אותן יחד Documents are usually rolled separately, and then tied together and so this arrangement cannot serve as a *סימן*?

**קשר סימן**

The specific type of knot used to tie the bundle serves as a *סימן*.

**אלה כרוכין צב קב**

Three documents rolled together. And this unusual arrangement is a sufficient *סימן*.



3 However a ברייתא describes  
 כמה הוא תכריך של שטרות  
 שלשה כרוכין זה בזה  
 A roll also consists of at least three documents rolled  
 together.  
 Apparently, both תכריך and אגודה are documents rolled  
 together?

However, the Gemara explains the difference:

תכריך  
 כל חד וחד בראשה דחבריה  
 Each one is rolled over the previous roll.

אגודה  
 דרמו אהדדי  
 They are first placed one on top of the other, and then all  
 rolled together.

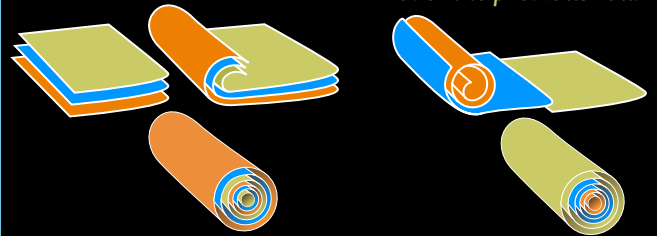
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3 כמה הוא תכריך של שטרות  
 שלשה כרוכין זה בזה  
 A roll also consists of at least three documents  
 rolled together.  
 Apparently, both תכריך and אגודה  
 are documents rolled together?

The difference is...

**אגודה**  
**דרמו אהדדי**  
 They are first placed  
 one on top of the other,  
 and then rolled together.

**תכריך**  
**כל חד וחד**  
**בראשה דחבריה**  
 Each one is rolled  
 over the previous roll.



4 The Gemara points out that if  
 מכריז מנין  
 He announces the number of documents he found, and the  
 owner identifies the way they were wrapped together,  
 then  
 מאי אריא תלתא  
 אפילו תרין נמי  
 The same method should be effective if he finds two  
 documents!

Rather,  
 שטרי מכריז  
 He announces that he found documents. The owner then  
 identifies the number of documents, AND the way they  
 were bound. Therefore, as Rashi explains,

תרי מידע ידיע  
 דמיעוט שטרות שתים  
 It was obvious from his declaration that he found at least  
 two, and therefore the number is not a sufficient סימן.  
 =====

4 מכריז מנין  
 If he announces the number of documents he found,  
 and the owner identifies the way  
 they were wrapped together,  
**מאי אריא תלתא**  
**אפילו תרין נמי**  
 Then the same method should be effective  
 if he finds two documents!

שטרי מכריז

He announces that he found documents.  
 The owner then identifies the number of documents,  
 and the way they were bound.

Therefore, as Rashi explains,  
 תרי מידע ידיע

דמיעוט שטרות שתים

It was obvious from his declaration  
 that he found at least two, and therefore  
 the number is not a sufficient סימן.

5 The Mishnah continues

רשב"ג אומר  
 אחד הלוח משלשה  
 יחזיר ללוה  
 If all three documents were from the same borrower, they  
 are returned to him, because, as the Gemara explains,  
 מאי בעו גבי הדדי  
 They are obviously his, because why else were they found  
 together?

Furthermore, we cannot speculate  
 לקיומניהו אזלי  
 They were taken together to be certified, because  
 דמקיימי  
 They are already certified.  
 We also do not suspect  
 מידא דספרא נפיל  
 The scribe lost them after certifying them, because  
 לא משהי איניש קיומיה בידא דספרא  
 People do not leave documents by the scribe for any  
 length of time, and so it is more likely that that the  
 borrower lost them.

6 Similarly, the Mishnah continues,

שלשה הלויין מן האחד  
 יחזיר למלוה  
 If all three documents were from the same lender, they are  
 returned to him, because  
 מאי בעו גבי הדדי  
 They are obviously his, because why else were they found  
 together?

Furthermore, we do not speculate  
 למכתבנהו אזלי  
 Perhaps they were lost by one scribe who wrote them all,  
 because  
 דכתיבי בתלת ידי ספרי  
 They were written in three handwritings.  
 We also do not suspect  
 לקיומניהו אזלי  
 They were lost while being taken to be certified, because  
 מלוה מקיים שטריה  
 לזה לא מקיים שטריה  
 It is the creditor who certifies the documents; not the  
 debtor.  
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5

מלפ

רשב"ג אומר  
 אחד הלוח משלשה  
 יחזיר ללוה

If all three documents were from the same borrower,  
 they are returned to him,

מאי בעו גבי הדדי

They are obviously his, because why else  
 were they found together!

לקיומניהו אזלי

They were perhaps taken together to be certified, because

דמקיימי

They are already certified.

We also do not suspect

מידא דספרא נפיל

The scribe lost them after certifying them, because

לא משהי איניש קיומיה בידא דספרא

People do not leave documents by the scribe,  
 and so it is more likely that that the borrower lost them.

6

מלפ

שלשה הלויין מן האחד  
 יחזיר למלוה

If all three documents were from the same lender,  
 they are returned to him.

Because

מאי בעו גבי הדדי

They are obviously his,  
 why else were they found together?

למכתבנהו אזלי

We're not concerned that they were lost by one scribe  
 who wrote them all, because

דכתיבי בתלת ידי ספרי

They were written in three handwritings.

We also do not suspect

לקיומניהו אזלי

They were lost while being taken to be certified, because

מלוה מקיים שטריה

לזה לא מקיים שטריה

It is the creditor who certifies the documents  
 not the debtor.

7 The Mishnah continues

מצא שטר בין שטרותיו  
ואינו יודע מה טיבו

If someone finds a document in his possession, and does not know its status, as Rashi explains

אם הלואה הפקידו אצלו  
או המלוה

He is unsure whether the borrower or the lender entrusted him with it;

או שמא מקצתו פרוע

ומסרוהו לו להיות שלישי ביניהם

Or if it was partially paid and both parties entrusted it to him until the debtor pays in full;

יהא מונח עד שיבא אליהו

It remains in his possession until its ownership is proven conclusively.

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7

אלוף

מצא שטר בין שטרותיו  
ואינו יודע מה טיבו

If someone finds a document in his possession,  
and does not know its status,

*As Rashi explains*

אם הלואה הפקידו אצלו  
או המלוה

*He is unsure whether the borrower  
or the lender entrusted him with it;*

או שמא מקצתו פרוע

ומסרוהו לו להיות שלישי ביניהם

*Or if it was partially paid and both parties entrusted it  
to him until the debtor pays in full;*

יהא מונח עד שיבא אליהו

It remains in his possession until its ownership  
is proven conclusively.

אם יש עמהן סמפונות  
יעשה מה שבסמפונות

If a creditor found a receipt in his possession,  
we assume the loan was indeed paid,  
and the debtor trusted him to give him the receipt later.



8 The Mishnah concludes, אם יש עמהן סמפונות יעשה מה שבסמפונות  
If a creditor found a receipt in his possession, we assume the loan was indeed paid, and the debtor trusted him to give him the receipt later.

The Gemara cites a ruling of רב: סמפון היוצא מתחת ידי מלוה  
If a creditor finds a receipt in his possession, אינו אלא כמשחק ופוסל  
The receipt is invalid, and the debtor must pay the loan. And we can explain the receipt either way;

כתוב בכתב יד סופר ספרא אתרמי ליה וכתב  
If it was written by a scribe, we assume that he met a scribe and took advantage of the opportunity to write the receipt in anticipation of the repayment of the debt; furthermore,

אע"פ שכתוב בכתב יד  
Even if it was written by the creditor, it might not have been used, because he may have reasoned דלמא מתרמי ואתי בין השמשות

וקא פרע לי  
The debtor may come to repay the loan shortly before nightfall, when the scribe will not be available, דאי לא יהיבנא ליה

לא יהיב לי זוזי  
And he will refuse to pay without receiving a receipt. Therefore,

אכתוב אנא דכי אייתי לי זוזי אתן ליה  
He may write the receipt in advance to have it ready when needed. Therefore, it does not prove that the loan was paid.

9 Now, רב rules פסול  
The receipt is invalid, since it was in the creditor's possession, while our Mishnah ruled יעשה מה שבסמפונות  
We accept the receipt as valid?

The Gemara answers שנמצא בין שטרות קרועין  
The Mishnah refers to a receipt found among his discarded documents, indicating that he no longer needed to use it, because the loan was paid. Ordinarily, however, פסול  
Such a receipt is indeed invalid.

However, the Gemara adds, יתקיים מחותמיו דשיילין להו לסהדי  
אי פרוע אי לא פרוע  
We do attempt to ascertain whether it was paid by locating and questioning the signatories.

8

**רב**

**סמפון היוצא מתחת ידי מלוה**  
If a creditor finds a receipt in his possession, אינו אלא כמשחק ופוסל  
The receipt is invalid, and the debtor must pay the loan.  
And we can explain the receipt either way...

<p><b>אע"פ שכתוב בכתב יד</b> Even if it was written by the creditor, it was not used, because he may have reasoned דלמא מתרמי ואתי בין השמשות – וקא פרע לי The debtor may come to repay the loan shortly before nightfall, when the scribe is not available, דאי לא יהיבנא ליה לא יהיב לי זוזי And he will refuse to pay without receiving a receipt. Therefore... אכתוב אנא דכי אייתי לי זוזי אתן ליה He wrote it in advance to have it ready when needed. Therefore, it does not prove that the loan was paid.</p>	<p><b>כתוב בכתב יד סופר ספרא אתרמי ליה וכתב</b> It was written by a scribe and we assume he may have met a scribe and took advantage of the opportunity to write the receipt in anticipation of the repayment of the debt.</p>
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9

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<p><b>רב Rules פסול</b> The receipt is invalid, since it was in the creditor's possession.</p>	<p><b>Our Mishnah ruled יעשה מה שבסמפונות</b> We accept the receipt as valid.</p>
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**שנמצא בין שטרות קרועין**  
The Mishnah refers to a receipt found among his discarded documents, indicating that he no longer needed to use it, because the loan was paid.

<p><b>Ordinarily פסול</b> Such a receipt is indeed invalid.</p>	<p><b>However יתקיים מחותמיו דשיילין להו לסהדי אי פרוע אי לא פרוע</b> We do attempt to ascertain whether it was paid by locating and questioning the signatories.</p>
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10 The Gemara cites several exceptions:

1.  
סמפון שיש עליו עדי קיום  
כשר  
If it was certified in court, it was certainly used, and the debt repaid.

2.  
יוצא מתחת ידי שלישי  
כשר  
If it was entrusted to a third party, he is believed to say whether it was used, because  
הא הימניה מלוה לשלישי  
The creditor agreed to trust him regarding the loan.

3.  
יוצא לאחר חיתום שטרות  
כשר  
If the receipt was written on the loan document itself, it is valid, because  
דאי לאו דפריע  
לא הוה מרע ליה לשטרתי  
He would not write a receipt on the document itself in advance. Therefore, the debt was clearly repaid.

הדרן עלך שנים אוחזין  
We have B"h completed the first Perek of בבא מציעא, and will begin the second Perek, אלו מציאות, in the next Shiur בע"ה.

10

Several Exceptions. . .

2  
יוצא מתחת ידי שלישי  
כשר  
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1  
סמפון  
שיש עליו עדי קיום  
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If it was certified in court, it was certainly used, and the debt repaid.

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יוצא לאחר חיתום שטרות - כשר  
If the receipt was written on the loan document itself, it is valid, because  
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He would not write a receipt on the document in advance. Therefore, the debt was clearly repaid.