



т"оэ

#### Intro

Today we will בע"ה learn סכת בבא מציעא f דף כ"ו learn מסכת בבא מציעא. Some of the topics we will learn about include.

#### The Mishnah's Halachah of

מצא בכותל ישן

הרי אלו שלו

If a person found an item with a סימן hidden in an old wall, he may keep it.

However

מצא בכותל חדש

If he found an item in a new wall, and it was בפנים, in the inner side, he must return it to the owner of the wall.

#### The Mishnah's Halachah of

אם היה משכירו לאחרים

אפילו בתוך הבית

הרי אלו שלו

If the owner rented this house to others, even if the item was hidden inside the house, the finder may keep it, because as Rashi explains

לא ידוע דמאן נינהו

ובעליו נואשו

The item could have belonged to any one of the renters who were certainly מייאש, because it will be found by other renters.

The Gemara's discussion as to why we do not say ליזיל בתר בתרא

The item was forgotten by the last renter.

's Halachah of רב נחמן's Halachah of ראה סלע שנפל משנים חייב להחזיר

If a person saw a coin fall from between two people, he must return it to its rightful owner, because it is assumed that the owner of the coin was not מייאש.

However,

בשלשה אינו חייב להחזיר

If he saw a coin fall from between three people, the finder may keep it, because it is assumed that the owner of the coin was שמיאט.

The Gemara's discussion in the various איסורים included in the Mitzvah of השבת אבידה

The Mishnah's Halachos regarding

מצא בחנות

If an item with no סימן was found in a store; OR

בין התיבה ולחנוני

Between the storekeeper and his box;











OR.

לפני שולחני

הרי אלו שלו

The money was in front of a money changer.

OR

בין הכסא ולשולחני

Between the moneychanger and the stool which supports the table:

The Mishnah's Halachah of הלוקח פירות מחבירו או ששילח לו חבירו פירות ומצא בהן מעות

If a person purchased or received fruits from his friend, and he found loose money mixed with the fruits, the finder may keep it.

The distinction in whether בלוקח מן התגר He bought the fruit from a merchant; OR בלוקח מבעל הבית He bought the fruit from a private person;





Dedicated By: \_





So let's review ...

Zugt Di Mishnah מצא בגל ובכותל ישן הרי אלו שלו

If someone found an item with a סימן in a pile of rubble, or in an old wall, he may keep it, even though it was הונה, deliberately placed there, because as the Gemara explains דשתיך טפי

It was extremely rusted; שיכול לומר לו של אמוריים הן

And the finder can claim that it did not belong to owner or his ancestors, but rather to a non-Jew from ancient times.

מצא בכותל חדש

If he found the item in a new wall, and דשתיך, it was rusted, it depends

מחציו ולחוץ שלו

If it was found in the outer side that faces the רשות הרבים, he may keep it, because as Rashi explains אחד מבני רשות הרבים נתנו שם ושכח

A passerby hid the item there and forgot it, and after all this time was certainly מייאש.

מחציו ולפנים של בעל הבית

If it was found in the inner side, he must return it to the owner of the house, because as Tosfos explains בעל הבית אינו שוכח חפציו ימים רבים

The owner does not forget about things in his house even after a long time. And the finder cannot claim של אמוריים הן

Because it was a new wall;

However, as Rashi explains; בלא שתיך If the item was not at all rusted,

אפילו מחציו ולחוץ חייב להכריז

Even if the item was hidden in the outer side, the finder must attempt to locate the owner, because it is ספק הינוח, it was possibly placed there, and a person does not forget his item in a short time, and he was not w.

======

The Mishnah continues אם היה משכירו לאחרים אפילו בתוך הבית אפילו בתוך הבית הרי אלו שלו

If the owner rented this house to others, even if the item was hidden inside the house, the finder may keep it, because as Rashi explains

לא ידוע דמאן נינהו ובעליו נואשו

Dedicated By: \_

The item could have belonged to any one of the renters, and its owner was certainly מייאש, because he assumes that another renter took it.











The Gemara asks

ליזיל בתר בתרא

Why does the finder get to keep it? We ought to assume that the item was forgotten by the last renter? Because as Rashi explains;

סתם שוכר בית כשהוא יוצא מחפש כל זויותיו

A renter usually inspects the entire house before moving out. Therefore,

אחרונים שכחוהו

ואילו ראשונים שכחוהו כבר מצאוהו אחרונים

It must be that the last renter forgot the item, because if an earlier renter forgot it, a subsequent renter would have found it?



The Gemara offers two possible answers:

1.

ריש לקיש משום בר קפרא says כגון שעשאו פונדק לשלשה ישראל

The Mishnah refers to a guest house that was last rented to three people at the same time, and the Mishnah concurs with רבי שמעון בן אלעזר in Daf מ"ד who holds אזלינן בתר רובא

If there is large number of people in one area, the owner is מייאש because he assumes that a dishonest person might find the item and will not return it. Therefore, even if אלזינן בתר בתרא

Even if we assume that one of these three forgot the item, he was מייאט, because he assumes that one of the others might have taken it.

The Gemara offers two possible answers:

ריש לקיש משום בר קפרא:

CALL שעשאו פונדק

CALL שעשאו פונדק

CALL שעשאו פונדק

The Mishnah refers to a guest house that was last rented to 3 people at the same time

The Mishnah concurs with

באילינן בתר רובא

If there is large number of people in one area, the owner is מייאש because he assumes that a dishonest person might find the item and will not return it

Therefore, even if איל התר בתר אול איל הייא, because he assumes

that one of the others might have taken it



Dedicated By: \_





5

רב נחמן says, the Mishnah may even concur with the רבנן who generally hold

לא אזלינן בתר רובא

The owner is not מייאט, because he assumes that all the people in the area are honest. However, in this case of שעשאו פונדק לשלשה ישראל

The owner of the item certainly was מייאש, because מימר אמר מכדי איניש אחרינא לא הוה בהדי אלא הני מימר אמר מכדי איניש אחרינא לא הדרו לי ולא הדרו לי ולא הדרו לי ולא הדרו לי

He knows that only the two others had access to the house, and they both denied possession of the item. Therefore, he assumes

בדעתייהו למיגזלה

They intend to steal the item and not return it.

As רב נחמן rules in another case ראה סלע שנפל משנים

חייב להחזיר

If a person saw a coin fall from between two people, he must return it to its rightful owner, because the owner of the coin was not אמיאש, since

מימר אמר מכדי איניש אחרינא

לא הוה בהדאי אלא האי

He has a טענת ודאי, a certain claim to the one other person nearby. Therefore,

נקיטנא ליה ואמינא ליה אנת הוא דשקלתיה

He can impose on him a שבועת היסת, an oath to make him admit that he took the coin.

However

בשלשה אינו חייב להחזיר

If he saw a coin fall from between three people, the finder may keep it, because the owner of the coin certainly was מייאש, because

מימר אמר מכדי תרי הוו בהדאי

He merely has א טענת שמא, an uncertain claim, since there were two people nearby, and he cannot impose on them a שבועת היסת, because

אי נקיטנא להאי אמר לא שקלתיה ואי נקיטנא להאי אמר לא שקלתיה

Each person can deny possession and claim that the other person might have taken it.

2

רב נחמן:

The Mishnah may even concur with the רבנן who generally hold לא אזלינן בתר רובא

However, in this case of

# שעשאו פונדק לשלשה ישראל

The owner of the item was מייאש, because

מימר אמר מכדי איניש אחרינא לא הוה בהדי אלא הני אמרי קמייהו כמה זמני ליהדרו לי ולא הדרו לי

He knows only the 2 others had access, and they both denied possession of the item

Therefore, he assumes הצמיידו אנני-3



### ראה סלע שנפל משׁנִים חייב להחזיר

Because the owner was not מייאש, since

מימר אמר מכדי איניש אחרינא לא הוה בהדאי אלא האי

He has a certain claim to the one other person nearby

Therefore,

נקיטנא ליה ואמינא ליה אנת הוא דשקלתיה

He can impose on him a שבועת היסת to make him admit that he took the coin

However

#### בשלשה אינו חייב להחזיר

because

מימר אמר מכדי תרי הוו בהדאי

He merely has a טענת שמא since there were two people nearby,

and he cannot impose on them a שבועת היסת because

אי נקיטנא להאי אמר לא שקלתיה ואי נקיטנא להאי אמר לא שקלת<u>יה</u>



Dedicated By: \_





רבא makes the following distinction regarding נפל משלשה: אית ביה שוה פרוטה לכל חד וחד

חייב להחזיר

If the coin was worth three פרוטות, and there is one פרוטה per each person, only then does the finder return it, because

אימור שותפי נינהו

ולא מיאשו

It is possible that the three were all partners who trust each other, and each one owns a share of one פרוטה. Therefore, when the one partner discovered that he dropped the coin he is not מייאש, because he assumes that his partner found it and will certainly return it.

However

דלית ביה שוה פרוטה לכל חד וחד אינו חייב להחזיר

If the coin was worth less than three פרוטות, and there is no פרוטות per each person, the finder does not return it, because even if they were partners, each one owns less than one פרוטה for which there is no obligation of השבת אבידה.

And if they were not all partners, the owner of the coin was שמיאש, because the non-partner might find it and not return it.

The Gemara cites a second version of רבא.

איכא דאמרי אמר רבא

אע"ג דלית ביה אלא שוה שתי פרוטות

חייב להחזיר

Even if the coin is worth only two ברוטות, and there is less than one פרוטות per person, the finder must return it, because

אימור שותפי נינהו

וחד מנייהו אחולי אחליה למנתיה גבי חבריה

It is possible that the three were all partners and one partner granted his share to another partner who now owns one פרוטה, for which there is an obligation of השבת אבידה.

======

makes the following distinction regarding נפל משלשה:

דלית ביה שוה פרוטה לכל חד וחד אינו חייב להחזיר

אית ביה שוה פרוטה לכל חד וחד חייב להחזיר

Because
even if they were partners,
each one owns
less than one סרוטה
for which there is
no obligation of
השבת אבידה

And if they were not all partners, the owner was מייאש because the non-partner might find it and not return it Because

#### אימור שותפי נינהו ולא מיאשו

When one discovered that he dropped the coin he is not מייאש, because he assumes that his partner found it and will certainly return it

איכא דאמרי אמר רבא:

אע"ג דלית ביה אלא שוה שתי פרוטות חייב להחזיר

Because

אימור שותפי נינהו וחד מנייהו אחולי אחליה למנתיה גבי חבריה

It is possible that the three were all partners and one partner granted his share to another partner who now owns one פרוטה, for which there is an obligation of השבת אבידה









The Gemara proceeds with a discussion of the various יחשבת אבידה included in the Mitzvah of השבת אבידה:

1.

In a case of

נטלה לפני יאוש על מנת לגוזלה

עובר בכולן

If someone found an item with a סימן, and before the owner was מייאש the finder took it with the intention of stealing it, even if afterward the owner was מייאט, and he eventually returned the item to the owner, he is liable for all the following three איסורים.

1.

The לא תעשה of

לא תגזול

Because he stole the item while it still belonged to the owner;

2.

The מצות עשה of

השב תשיבם

And

3.

The לא תעשה of לא תוכל להתעלם

Because he did not return it when he found it;

And even though he eventually returned the item; מתנה הוא דיהיב ליה

ואיסורא דעבד עבד

He is considered to have given the owner a gift, but the transgressions for the lost item remain.





## נטלה לפני יאוש על מנת לגוזלה עובר בכולן

If someone found an item with a סימן, and before the owner was מייאש the finder took it with the intention of stealing it,

Even if afterward the owner was מייאש, and he eventually returned the item to the owner, he is liable for all the following three איסורים.



2



לא תוכל להתעלם השב תשיבם

Because he did not return it when he found it

לא תגזול

Because he stole the item while it still belonged to the owner.

And even though he eventually returned the item;

מתנה הוא דיהיב ליה

ואיסורא דעבד עבד

It is considered as if he gave the owner a gift, but the transgressions for the lost item remain.



Dedicated By: \_\_





8

2.

In the case of נטלה לפני יאוש על מנת להחזירה ולאחר יאוש נתכוין לגוזלה

If before the owner was מייאש, the finder took the item with the intention to return it, but after the owner was מייאש he reconsidered and decided to steal it, he is only liable for

השב חשיבם

Because he did not return it:

However, he is not liable for לא תגוול because as Rashi explains

לא שייך אלא בשעת נטילה

The איסור גוילה applies only if at the time that he took the item he intended to steal it, while in this case he did not intend to steal it when he took it.

And he is also not liable for לא תוכל להתעלם, because אינה אזהרה אלא לכובש עיניו ונמנע מלהציל

This Issur applies only if he ignores the item and refrains from saving it, while in this case he initially did intend to return it.



9

In the case of המתין לה עד שנתיאשו הבעלים ונטלה

If the finder waited until after the owner was מייאש and then took the item, he is only liable for לא תוכל להתעלם

Because he did not attempt to save it before אוש;

However, he is not also liable for לא תגזול or for השב תשיבם because when he actually took the item it was already הפקר, ownerless.

=====











#### Zugt Di Mishnah:

מצא בחנות

הרי אלו שלו

If someone found an item with no סימן in a store, he may keep it, because, as Rashi explains

ההוא דנפל מיניה ודאי מייאש שהכל נכנסים לשם

The one who lost it was certainly מייאש, because the store is frequented by many people.

If he found the item

בין התיבה ולחנוני

Between the storekeeper and his box;

מל חווי

The item belongs to the storekeeper, because he conducts all the transactions in this area.

לפני שולחני

If someone found money before a money changer in front of his table:

הרי אלו שלו

The finder may keep the money, because, as Rashi explains

מן הבאין נפלו

שהרי השלחן מפסיק בין שולחני למעות

The money fell from the customers but not from the שולחני, because his table separates between himself and the money.

However,

בין הכסא ולשולחני

If he found the money between the moneychanger and the stool which supports the table;

הרי אלו של שולחני

The money belongs to the moneychanger, because we assume it fell from him.

======

10

### אקלקופ

### מצא בחנות הרי אלו שלו

If someone found an item with no סימן in a store, he may keep it, because,

As Rashi explains

ההוא דנפל מיניה ודאי מייאש שהכל נכנסים לשם

The one who lost it was certainly lxm, because a store is frequented by many people.

If he found the item

בין התיבה ולחנוני

Between the storekeeper and his box;

של חנוני

because he conducts all the transactions in this area.



If someone found money before a money changer in front of his table - the finder may keep the money, because,

As Rashi explains

שהרי השלחן מפסיק בין שולחני למעות

The money fell from the customers - not from the yold, because his table separates between himself and the money

## בין הכסא ולשולחני

If he found the money between the moneychanger and the stool which supports the table;

## הרי אלו של שולחני

The money belongs to the moneychanger, because we assume it fell from him.







11 The Mishnah continues:

הלוקח פירות מחבירו או ששילח לו חבירו פירות

ומצא בהן מעות

הרי אלו שלו

If someone purchased or received fruit from his friend and found money mixed with the fruits, the finder may keep it.

אם היו צרורין

נוטל ומכריז

If the money was tied in a pouch, which is considered a סימן, he must announce it and return it.

ריש לקיש משום רבי ינאי makes the following distinction: בלוקח מן התגר

הרי אלו שלו

If the fruit was purchased from a merchant, he may keep the loose money, because

שאף הוא לקח מאנשים הרבה ולא ידע דמאן נינהו

The merchant buys from many other people and he does not know whose money this is; and the owner was certainly סימן as he has no סימן.

אבל בלוקח מבעל הבית חייב להחזיר

If the fruit was purchased from a private person, he must return the money to him, because these were his own fruits, and the money certainly belongs to him. 11

The Mishnah continues:

הלוקח פירות מחבירו או ששילח לו חבירו פירות ומצא בהן מעות הרי אלו שלו

If someone purchased or received fruit from his friend and found money mixed with the fruits, the finder may keep it.

> אם היו צרורין נוטל ומכריז

If the money was tied in a pouch, which is considered a סימן, he must announce it and return it.



בלוקח מן התגר הרי אלו שלו

If the fruit was purchased from a merchant, he may keep the loose money, because

שאף הוא לקח מאנשים הרבה ולא ידע דמאן נינהו

The merchant buys from many other people and he does not know whose money this is; and the owner was certainly סימן as he has no סימן.

### אבל בלוקח מבעל הבית חייב להחזיר

If the fruit was purchased from a private person, he must return the money to him, because these were his own fruits, and the money certainly belongs to him.



Dedicated By: \_\_

