



A ב"ד

Today we will learn בע"ה of בבא מציעא דף ס"ג
Some of the topics we will learn about include.

The Machlokes רב and רב ינאי regarding

עושין אמנה בדמים

Whether one may prepay for fruits, if instead he will later receive money or another item that was not included in the original sale?

The Machlokes רבי יהודה and תנא קמא regarding

הרי שהיה נושה בחבירו מנה

ועשה לו שדה מכר

ולוקח אוכל פירות

If a person loaned someone money and stipulated that if the does not pay up by the due date, the money will retroactively be considered a payment for the sale of the field to the מלוה, and during the interim of the loan, the buyer, the מלוה, benefits from the fruits. The תנא קמא holds, אסור, this is forbidden, while רבי יהודה holds, מותר, this is permitted.

אביי explains

צד אחד ברבית איכא בינייהו

They disagree in whether a מלוה may accept רבית that was uncertain at the time of the loan, as here it might not be if the does not pay up, since the field will have been sold retroactively to the מלוה, and the fruits do belong to him.

B רבא explains

רבית ע"מ להחזיר איכא בינייהו

They disagree in whether it is permitted for the מלוה to benefit if he intends to pay back the לווה for all the fruits.

The two explanations for the Halachah of

פוסקין על שער שבשוק

ואע"פ שאין לו

A person may prepay for fruits even though the מוכר does not own any, as long as the fruits are available for sale in the marketplace.

1.

Either because

מה לי דמיהן ומה לי הן

נמי אמרינן

We consider the money that the לוקח originally gives as the fruits that are eventually bought, because this money can be used to buy those fruits, therefore it is considered that the buyer now owns the fruits.

OR

2.

Because the לוקח has no gain from his prepayment even though the price increased, because he claims

אי הוּו לי זוזי בידי

הוּו מזבנינא בהיני ובשילי בזולא

Had I retained my money I could have then bought those fruits from the market before the price increased.

A

Machlokes רב and רב ינאי

regarding

עושין אמנה בדמים

Machlokes רבי יהודה and תנא קמא

regarding

**הרי שהיה נושה בחבירו מנה
ועשה לו שדה מכר
ולוקח אוכל פירות**

אביי

**צד אחד ברבית
איכא בינייהו**

B

רבא

**רבית ע"מ להחזיר
איכא בינייהו**

**פוסקין על שער שבשוק
ואע"פ שאין לו**

**מה לי דמיהן ומה לי הן
נמי אמרינן**

**אי הוּו לי זוזי בידי
הוּו מזבנינא בהיני
ובשילי בזולא**



1 So let's review ...

In the previous Shiur we discussed the Braisa of ר' תני
אושעיא

הרי שהיה נושה בחבירו מנה
והלך ועמד על גורנו

If a person was owed a מנה, and he went to the לוח's field
and told him that he needs the מנה to buy wheat;

ואמר לו חטין יש לי שאני נותן לך
צא ועשאן עלי כשער של עכשיו

The מנה told him, I will pay you instead with one מנה's
worth of wheat as per the current market price;

הגיע זמן חטין למכור אמר לו תן לי חטין
שאני רוצה למוכרן וליקח בהן יין

Then the price of wheat increased and the מלוח converted
the sale from wheat at its current high price to wine at its
current low price;

The Braisa concludes that it depends

כולם אם יש לו מותר

If at the time of the sale of each subsequent item the לוח
had the item, as in this case, the wine, it is permissible
because as Rashi explains.

דזכי בהו האי מהשתא

וכי מוקרי ברשותיה מוקרי

הואיל ואם בא לחזור קאי במי שפרע

It's considered as if the מלוח already owned the לוח's item
before the price increased even though he did not perform
a proper קנין, because if the לוח would retract from the sale
he would be liable for a שפרע.

1

תני ר' אושעיא
הרי שהיה נושה בחבירו מנה
והלך ועמד על גורנו

*If a person was owed a מנה,
and he went to the לוח's field and told him
that he needs the מנה to buy wheat*

ואמר לו חטין יש לי שאני נותן לך
צא ועשאן עלי כשער של עכשיו

*The לוח told him,
I will pay you instead with one מנה's worth of wheat
as per the current market price;*

הגיע זמן חטין למכור
אמר לו תן לי חטין
שאני רוצה למוכרן וליקח בהן יין

*Then the price of wheat increased
and the מלוח converted the sale at its current high price
to wine at its current low price;*

The Braisa concludes that it depends. . .

כולם אם יש לו מותר

*If at the time of the sale of each subsequent item
the לוח had the item - it is permissible*

דזכי בהו האי מהשתא

וכי מוקרי ברשותיה מוקרי

הואיל ואם בא לחזור קאי במי שפרע

*It's considered as if the מלוח already owned the לוח's item
before the price increased*

*even though he did not perform a proper קנין,
because if the לוח would retract from the sale
he would be liable for a שפרע.*



2

However

אין לו אסור

If at the time of the sale the לוח did not own the item, it is forbidden, and we cannot utilize the היתר of השער, because

לאו כאיסרו הבא לידו דמי

It's not considered as if the מלוה owned the item before the price increased, because he did not pay the לוח with actual money, but rather with his חוב, and the לוח did not have the ability to buy the item from the market, and therefore if the price increased before the מלוה receives it

דמי לרבית

ואסור

This is similar to interest, as the מלוה receives a more valuable item because he paid in advance, which is similar to a מלוה who receives רבית for his loan.

2

אין לו אסור

If at the time of the sale the לוח did not own the item, it is forbidden, and we cannot utilize the היתר of השער,

because

לאו כאיסרו הבא לידו דמי

It's not considered as if the מלוה owned the item before the price increased, because he did not pay the לוח with actual money, but rather with his חוב, and the לוח did not have the ability to buy the item from the market

Therefore if the price increased before the מלוה receives it דמי לרבית – ואסור

This is similar to interest, as the מלוה receives a more valuable item because he paid in advance, which is similar to a מלוה who receives רבית for his loan.

3

says רבא

שמע מינה מדר' אושעיא תלת

Three Halachos can be derived from this Braisa:

1.

שמע מינה

דמעמידין מלוה על גבי פירות

One is permitted to prepay for an item even without money, but with a debt that the seller owes him.

2.

וש"מ הוא דיש לו

This would be permitted only if at the time of the sale the seller has the item.

3.

וש"מ איתא לדרבי ינאי

This Braisa supports רבי ינאי in the following Machlokes:

רב says

עושין אמנה בפירות

A person is permitted to prepay for fruit only if he will eventually receive those very fruits, because

לא מחזי כרבית

This will not be confused with רבית, because it is obviously a sale. The initial money was a payment for these fruits, and the לוקח is considered to own the fruits from before the price increased. However,

ואין עושין אמנה בדמים

A person may not prepay for fruits if he will later receive money or another item that was not in the original sale, because

מחזי כרבית

דזוזי יהיב זוזי שקיל

This will be confused with רבית, because it appears to be a loan, and the extra money or item was returned for רבית.

3

שמע מינה מדר' אושעיא תלת

שמע מינה

הוא דיש לו

This would be permitted only if at the time of the sale the seller has the item.

שמע מינה

דמעמידין מלוה על גבי פירות

One is permitted to prepay an item without money, even with a debt that the seller owes him.

שמע מינה

איתא לדרבי ינאי

This Braisa supports רבי ינאי in the following Machlokes:

רב

ואין עושין אמנה בדמים

A person may not prepay for fruits if he will later receive money or another item that was not in the original sale, because

מחזי כרבית

דזוזי יהיב זוזי שקיל Because it appears to be a loan, and the extra money or item was returned for רבית.

עושין אמנה בפירות

A person is permitted to prepay for fruit only if he will eventually receive those very fruits,

Because

לא מחזי כרבית

Because it is obviously a sale. The initial money was a payment for these fruits, and the לוקח is considered to own the fruits from before the price increased.



- 4 רבי ינאי disagrees and holds
עושין אמנה בדמים
A person is permitted to prepay for fruits, even if he will eventually receive money or another item, because
מה לי הן ומה לי דמיהן
The extra money does not appear to be רבית, but rather they are the original fruits converted into money.
- And the Braisa of אושעיא תני ר' supports ינאי, since the Braisa states;
כולם אם יש לו מותר
And even though the initial sale was for wheat, and he eventually did not receive the wheat only wine, nevertheless this is permitted, because we say
מה לי הן ומה לי דמיהן

- 4 רבי ינאי
עושין אמנה בדמים
A person is permitted to prepay for fruits, even if he will eventually receive money or another item, because
מה לי הן ומה לי דמיהן
The extra money does not appear to be רבית, but rather the original fruits converted into money.
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And even though the initial sale was for wheat, and he eventually did not receive the wheat only wine, nevertheless this is permitted, because we say
מה לי הן ומה לי דמיהן

- 5 The Gemara offers two explanations to reconcile the Braisa with the opinion of רב:
1.
Either the Braisa is a case of
שמשך
At the time of payment the מלוה actually acquired the wheat by pulling it. OR
שיחד לו קרן זוית
Although the לוקח did not make a משיכה; however, since the מלוה designated an area exclusively for the מלוה's wheat
לא מחזי כרבית
Because, it is obvious that the wheat was initially sold to the מלוה before its price increased, and it was converted into wine.

- 5 Reconciling the Braisa with רב
1
Either the Braisa is a case of
שמשך
At the time of payment
the מלוה actually acquired the wheat by pulling it.
OR
שיחד לו קרן זוית
Although the לוקח did not make a משיכה; however, since the מלוה designated an area exclusively for the מלוה's wheat
לא מחזי כרבית
Because, it is obvious that the wheat was initially sold to the מלוה before its price increased, and it was converted into wine.

6

2. who רבי יהודה says, the Braisa follows the opinion of שמואל holds

צד אחד ברבית מותר
If at the time of the sale the possibility of רבית was uncertain, it is permitted, as in our case, the מלוה's gain depends on whether the market price will increase and they will substitute another item, which appears like רבית; but if he will take the original agreed item, it does not appear like רבית.

As the Braisa states
הרי שהיה נושה בחבירו מנה ועשה לו שדהו מכר

If a person loaned someone money and stipulated that if the לווה does not pay by the due date, the money will retroactively be considered a payment for the sale of the לווה's field to the מלוה;

The תנא קמא holds

בזמן שהמוכר אוכל פירות מותר

If during the interim of the loan, the seller, the לווה, collects the fruits, it is permitted, however

לוקח אוכל פירות אסור

If the buyer, the מלוה, collects the fruits, it is forbidden, because as Rashi explains

שלא לא יבא לידי מכר ויחזיר לו מעותיו

ונמצא שבהלוואה היו אצלו

וזה אוכל פירות ברבית

If the לווה does pay on time, the field will not have been sold to the מלוה, and the מלוה's fruit benefit will be considered a רבית payment for the money he loaned to the לווה.

רבי יהודה disagrees and says

אף בזמן שהלוקח אוכל פירות מותר

Even if the buyer, the מלוה, collects the fruits, it is permitted,

6

2

מלוא

the Braisa follows the opinion of רבי יהודה

צד אחד ברבית מותר

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As the Braisa states

הרי שהיה נושה בחבירו מנה ועשה לו שדהו מכר

If a person loaned someone money and stipulated that if the לווה does not pay by the due date, the money will retroactively be considered a payment for the sale of the לווה's field to the מלוה;

תנא קמא

לוקח אוכל פירות אסור

If the buyer, the מלוה, collects the fruits, it is forbidden.

בזמן שהמוכר אוכל פירות מותר

If during the interim of the loan, the seller, the לווה, collects the fruits, it is permitted.

Because as Rashi explains

שלא לא יבא לידי מכר ויחזיר לו מעותיו ונמצא שבהלוואה היו אצלו וזה אוכל פירות ברבית

רבי ירמיה

אף בזמן שהלוקח אוכל פירות מותר

Even if the buyer, the מלוה, collects the fruits, it is permitted,



7 As רבי יהודה explains, because רבי holds
 צד אחד ברבית מותר
 If the רבית was uncertain at the time of the loan it is
 permitted, and here it might not be רבית if the לווה does not
 pay up, since the field will have been sold retroactively to
 the מלוה, and the fruit did belong to him.
 While the תנא קמא holds
 צד אחד ברבית אסור

רבא explains that רבי יהודה does agree that
 צד אחד ברבית אסור
 And, only here he holds מותר because
 רבית ע"מ להחזיר מותר
 If when the לווה pays the loan, the מלוה intends to pay him
 back for all the fruits it is permitted, because retroactively
 the fruits were not for the loan.
 While the תנא קמא holds
 רבית ע"מ להחזיר אסור
 Even if the מלוה intends to pay him back for all the fruits it
 is forbidden, because
 בשעת אכילה קאכיל ליה לרבית
 While the מלוה benefited from the fruits they were for the
 loan.
 =====

7 אביי
 holds רבי יפוצק
 צד אחד ברבית מותר
 If the רבית was uncertain at the time of the loan it is permitted,
 and here it might not be רבית if the לווה does not pay up,
 since the field will have been sold retroactively to the מלוה,
 and the fruit did belong to him.
 The תנא קמא holds
 צד אחד ברבית אסור
 רבא
 agrees that רבי יפוצק
 צד אחד ברבית אסור
 And, only here he holds מותר because
 רבית ע"מ להחזיר מותר
 If when the לווה pays the loan, the מלוה intends to pay him
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 fruits were not for the loan.
 The תנא קמא holds
 רבית ע"מ להחזיר אסור
 Even if the מלוה intends to pay him back for all the fruits
 it is forbidden, because
 בשעת אכילה קאכיל ליה לרבית
 While the מלוה benefited from the fruits
 they were for the loan.

- 8 The Gemara continues
 רבא says, ינאי's reasoning of
 מה לי הן ומה לי דמיהן
 Could very well be the reasoning for the later Mishnah's
 Halachah of השער, as it states;
 פוסקין על שער שבשוק ואע"פ שאין לו
 A person may prepay for fruit even though the מוכר does
 not own any, as long as they are available for sale in the
 market, because
 מה לי הן ומה לי דמיהן
 אמרינן
 If we consider the money that the לוקח eventually receives
 as the fruits that were originally sold, because those fruits
 could be sold for money, then
 מה לי דמיהן ומה לי הן
 נמי אמרינן
 We also consider the money that the לוקח originally pays
 as the fruits that are eventually bought, because this
 money can be used to buy those fruits. Therefore, it is
 considered that the buyer now owns the fruits.

- 8
- רבא
- רבי ינאי - מפי' פ' ומפי' דמיהן
- רבא's reasoning
 Could very well be the reasoning for the Mishnah's
 Halachah of השער,
 פוסקין על שער שבשוק
 ואע"פ שאין לו
 A person may prepay for fruit
 even though the מוכר does not own any,
 as long as they are available for sale in the market,
 because
 מה לי הן ומה לי דמיהן
 אמרינן
 If we consider the money that the לוקח eventually
 receives as the fruits that were originally sold,
 because those fruits could be sold for money, then
 מה לי דמיהן ומה לי הן
 נמי אמרינן
 We also consider the money that the לוקח
 originally pays as the fruits that are eventually bought,
 because this money can be used to buy those fruits.
 Therefore, it is considered
 that the buyer now owns the fruits.



9 רבא ורב יוסף offer a second explanation

פוסקין על שער שבשוק
ואע"פ שאין לו

Because the לוקח has no gain from his prepayment even
though the price increases, because he can claim

אי הוּוּ לִי זוזי בידי

הוּוּ מַזְבִּינָא בְּהִינִי וּבְשִׁילִי בְּזוּלָא

Had I retained my money I could have then bought those
fruits from the market before the price increased

However, רבא says accordingly

וְהָא בְּעֵי לְמִיתַב זְזִי לְסַפְסִירָא

The לוקח must deduct from the sale the costs of a broker,
which he did gain from his prepayment, as he was spared
the costs paying a broker to arrange for the sale.

יוסף disagrees and holds the לוקח does not need to
deduct the costs of a broker, because

זְזִי דַאינְשִׁי אִינְהוּ עֲבָדִי לִיה סַפְסִירוּתִיה

The sellers seek out those who have money, and there
would be no need for a broker.

9

רבא ורב יוסף
offer a second explanation

פוסקין על שער שבשוק
ואע"פ שאין לו

Because the לוקח has no gain from his prepayment
even though the price increases, because he can claim

אי הוּוּ לִי זְזִי בִידִי

הוּוּ מַזְבִּינָא בְּהִינִי וּבְשִׁילִי בְּזוּלָא

Had I retained my money
I could have then bought those fruits from the market
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וְהָא בְּעֵי לְמִיתַב זְזִי לְסַפְסִירָא

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The לוקח does not need to deduct the costs of a broker,
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The sellers seek out those who have money,
and there would be no need for a broker.



- 10 The Gemara explains however
 אסור ללות סאה בסאה
 A person may not lend a סאה to be paid back the same
 amount even if the price increases, and we don't apply the
 reasoning of that had the מלוה retained his סאה he could
 have sold it now for more, because
 התם הלואה
 הכא זביני
 We only apply this reasoning to a sale in which רבית is
 only אסור מדרבנן, but we don't apply this reasoning for a
 loan in which רבית is אסור מדאורייתא.
 =====

says רב נחמן

כללא דרביתא

כל אגר נטר ליה אסור

The general rule for the Issur רבית is that any gain that one
 receives in return for waiting for his money or item is
 forbidden.

10

The Gemara explains however

אסור ללות סאה בסאה

A person may not lend a סאה to be paid back the same
 amount even if the price increases,
 and we don't apply the reasoning of -
 "had the מלוה retained his סאה
 he could have sold it now for more,"
 because

התם הלואה - הכא זביני

We only apply this reasoning to a sale
 in which רבית is only אסור מדרבנן,
 but not for a loan in which רבית is אסור מדאורייתא.

רב נחמן

כללא דרביתא

כל אגר נטר ליה אסור

The general rule for the Issur רבית is that
 any gain that one receives
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