

## A ט"ד

## Intro

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

## עיסקא

If someone manages another's investments in exchange for a share of the profits, we view half the capital as a loan and his managing services as interest on the loan. This can be rectified by paying him for his services. The Gemara discusses several details of this arrangement, including:

## מותר שלישי בשכר

If he needs to pay wages if they stipulate that he may keep any profit more than 1/3 of the investment's value?

## עד מתי חייב לטפל בה

How long a farmer is committed to care for animals entrusted to him as a עיסקא?

## עד מתי חייב לטפל בולדות

How long he is committed to caring for the animals offspring?

## A

## עיסקא

## מותר שלישי בשכר

## עד מתי חייב לטפל בה

## עד מתי חייב לטפל בולדות

## B

## And

## פליג חד

Whether one partner has the right to terminate their arrangement, depending whether they are dividing זוזי, money, or חמרא, wine.

The Gemara also discusses several other instances involving interest, including:

## מוגר זוזי

Whether it is permissible to charge a fee for renting money

## מפריז על שדהו

## ועל חנות

Whether one may pay extra rent to secure a loan; and

## ספינתא

## אגרא ופגרא

Whether one may rent out a ship with the condition that the renter is liable for damages from normal use?

## B

## פליג חד

## מוגר זוזי

## מפריז על שדהו ועל חנות

## ספינתא אגרא ופגרא

1 So let's review...

The Mishnah earlier stated  
 אין מושיבין תרנגולין למחצה  
 ואין שמין עגלין וסייחין למחצה  
 It is forbidden to supply a farmer with eggs to hatch, or young cattle to raise, in exchange for half the profits, if they are assessed, because half the capital is considered a loan, and his managing services is considered interest on the loan;  
 אלא אם כן נותן לו שכר עמלו ומזונו  
 Unless he pays him wages and supplies half the animal feed.

The Gemara now cites מחלוקת regarding these wages:  
 אמר רב  
 מותר שלישי בשכרך  
 הרי זה מותר  
 If they stipulate that the investor will only share in the profits of up to 1/3 of the investment, and any profit above that will be kept by the working partner as his wages, it is permitted.

However, שמואל argues  
 לא מצא מותר שלישי  
 ילך לביתו ריקן  
 There may not be extra profit, and he will have performed his services in exchange for the loan?

Therefore, שמואל holds  
 קוצץ לו דינר  
 He must promise him an additional set payment if there is no extra profit.

An alternate version of Rav's ruling:  
 כגון דאית ליה בהמה לדידיה  
 דאמרי אינשי גביל לתורא גביל לתורי  
 Rav only permits this arrangement if he has his own animals to care for, because he is not doing that much extra work.  
 =====

1

מלך

אין מושיבין תרנגולין למחצה  
 ואין שמין עגלין וסייחין למחצה

*It is forbidden to supply a farmer with eggs to hatch, or young cattle to raise, in exchange for half the profits, if they are assessed, because half the capital is considered a loan, and his managing services is considered interest on the loan;*

אלא אם כן נותן לו שכר עמלו ומזונו  
*Unless he pays him wages and supplies half the animal feed.*

שמואל

לא מצא  
 מותר שלישי  
 ילך לביתו ריקן

*There may not be extra profit, and he will have performed his services in exchange for the loan?*

קוצץ לו דינר

*He must promise him an additional set payment if there is no extra profit.*

אמר רב

מותר שלישי  
 בשכרך  
 הרי זה מותר

*If they stipulate that the investor will only share in the profits of up to 1/3 of the investment, and any profit above that will be kept by the working partner as his wages, it is permitted.*

*An alternate version*

כגון דאית ליה בהמה לדידיה

דאמרי אינשי גביל לתורא גביל לתורי

*Rav only permits this arrangement if he has his own animals to care for, because he is not doing that much extra work.*

**2** The Gemara cites a ברייתא that discusses other Halachos of such arrangements:  
השם בהמה לחבירו  
עד מתי חייב לטפל בה  
For how long are they committed to this arrangement?  
באתונות שמונה עשר חדש  
בגודרות כ"ד חדש  
18 months for donkeys, and 24 months for sheep and goats.  
Therefore,  
ואם בא לחלוק בתוך זמנו  
חברו מעכב עליו  
Neither has the right to end the partnership before this time;  
לפי שאינו דומה טיפולה של שנה זו  
לטיפולה של שנה אחרת  
Because the second year requires more effort, and the owner only entered the partnership based on the understanding that he would raise them for the full period.  
=====

**2** *ברייתא*  
**השם בהמה לחבירו  
עד מתי חייב לטפל בה**  
*For how long are they committed to this arrangement?*  
**באתונות שמונה עשר חדש  
בגודרות כ"ד חדש**  
*18 months for donkeys, and 24 months for sheep and goats.*  
*Therefore,*  
**ואם בא לחלוק בתוך זמנו  
חברו מעכב עליו**  
*Neither has the right to end the partnership  
before this time;*  
**לפי שאינו דומה טיפולה של שנה זו  
לטיפולה של שנה אחרת**  
*Because the second year requires more effort, and the  
owner only entered the partnership with the understanding  
that he would raise them for the full period.*

**3** A related ברייתא:  
השם בהמה לחבירו  
עד מתי חייב לטפל בולדות  
בדקה ל' יום  
ובגסה נ' יום  
The offspring of these animals are considered profit, and divided equally. However, the farmer is committed to caring for the investor's animals as well:  
30 days for newborn sheep and goats, and  
50 days for cattle;  
רבי יוסי אומר  
בדקה ג' חדשים  
מפני שטיפולה מרובה  
מפני ששיניה דקות  
He must care for sheep up to three months, because their teeth are small and they need special care.  
The ברייתא concludes  
מכאן ואילך  
נוטל מחצה שלו  
וחצי מחצה בשל חבירו  
After this time, half the animals are his, and if his partner wants him to continue raising the rest of the offspring, he receives half of their profits as well.

**3** *ברייתא*  
**השם בהמה לחבירו  
עד מתי חייב לטפל בולדות  
בדקה ל' יום  
ובגסה נ' יום**  
*The offspring of these animals are considered profit,  
and divided equally.*  
*However, the farmer is committed to caring for the  
investor's animals as well:*  
*30 days for newborn sheep and goats,  
and 50 days for cattle.*  
*רבי יוסי אומר*  
**בדקה ג' חדשים  
מפני שטיפולה מרובה  
מפני ששיניה דקות**  
*He must care for sheep up to three months,  
because their teeth are small and they need special care.*  
**מכאן ואילך  
נוטל מחצה שלו  
וחצי מחצה בשל חבירו**  
*After this time, half the animals are his,  
and if his partner wants him to continue,  
he receives half of their profits as well.*

4 The Gemara discusses dividing the profits of a עיסקא:  
 זוזי כמאן דפליגי דמו  
 Either partner can unilaterally withdraw his share of the profits in cash, if  
 טובי וטבי  
 תקולי ותקולי  
 If all the coins are of equal weight and equally accepted;  
 however,  
 טבי ותקולי לא  
 If some are a more accepted currency, or contained more silver, both partners need to agree on how to divide them.

On the other hand,  
 חמרא כולי עלמא ידעי  
 דאיכא דבסיים ואיכא דלא בסיים  
 Barrels of wine differ in quality, and so one can only divide them with the other partner's agreement or professional assessment.

4 *Dividing the profits of a עיסקא*

**זוזי כמאן דפליגי דמו**  
 Either partner can unilaterally withdraw his share of the profits in cash, if  
**טבי וטבי**  
**תקולי ותקולי**  
 If all the coins are of equal weight and equally accepted; however,  
**טבי ותקולי לא**  
 If some are a more accepted currency, or contained more silver, both partners need to agree on how to divide them.

On the other hand,  
**חמרא כולי עלמא ידעי**  
**דאיכא דבסיים ואיכא דלא בסיים**  
 Barrels of wine differ in quality, and so one can only divide them with the other partner's agreement or professional assessment.

5 The Gemara relates that רב חמא  
 מוגר זוזי בפשיטא ביומא  
 He rented out זוז coins, and since he did not consider it a loan, but a rental, he charged a fee.  
 However, the Gemara forbids this, and differentiates between  
 שכירות  
 Renting out objects; and  
 הלואה  
 Lending money;  
 מרא  
 הדרא בעינא  
 וידיע פחתיה  
 When one rents a spade, he returns the item itself, and is not responsible for normal wear and tear; therefore, the owner may charge a fee;  
 זוזי  
 לא הדרי בעינייהו  
 ולא ידיע פחתיה  
 When one borrows money, he spends it, and returns different coins; and even if he returns the same coins, there is no real depreciation. Therefore, the owner has no reason to charge a fee, and any additional payment is interest.

5 *רב חמא*

**מוגר זוזי בפשיטא ביומא**  
 He rented out זוז coins, and since he did not consider it a loan, but a rental, he charged a fee.

However, the Gemara forbids this, and differentiates between...

<b>הלואה</b> Lending money	<b>שכירות</b> Renting out objects
▼	▼
<b>זוזי</b> <b>לא הדרי בעינייהו</b> <b>ולא ידיע פחתיה</b>	<b>מרא</b> <b>הדרא בעינא</b> <b>וידיע פחתיה</b>
When one borrows money, he spends it, and returns different coins; and even if he returns the same coins, there is no real depreciation. Therefore, the owner has no reason to charge a fee, and any additional payment is interest.	When one rents a spade, he returns the item itself, and is not responsible for normal wear and tear; therefore, the owner may charge a fee;

6 The Gemara offers examples of transactions that are permitted, because, although they resemble רבית, they are not considered רבית and therefore מותר:

1.

הילך ד' זוזי

ואוזפיה לפלניא זוזי

One may pay a person to lend money to a third party, because

לא אסרה תורה

אלא רבית הבאה מלוה למלוה

Only a payment from the debtor to the creditor is considered רבית and אסור.

2.

שקיל לך ארבעה זוזי

וא"ל לפלוני

לאוזפן זוז

One may pay another person to convince a third party to lend money to the first person, because

שכר אמירה קא שקיל

He is only taking a fee for his efforts, and not payment on a loan.

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The following Mishnah refers to the previous Mishnah which rules

אין מושיבין תרנגולין למחצה

ואין שמין עגלין וסייחין למחצה

אלא אם כן נותן לו שכר עמלו ומזונו

The working partner must be compensated for his work and expenses.

Therefore,

6

*The Gemara gives examples of transactions permitted, because, although they resemble רבית, they are not considered רבית and therefore מותר:*

1

**הילך ד' זוזי  
ואוזפיה לפלניא זוזי**

*One may pay a person to lend money to a third party, because*

**לא אסרה תורה**

**אלא רבית הבאה מלוה למלוה**

*Only a payment from the debtor to the creditor is considered רבית and אסור.*

2

**שקיל לך ארבעה זוזי  
וא"ל לפלוני  
לאוזפן זוז**

*One may pay another person to convince a third party to lend money to the first person, because*

**שכר אמירה קא שקיל**

*He is only taking a fee for his efforts, and not payment on a loan.*

*The following Mishnah refers to the previous Mishnah which rules*

**אין מושיבין תרנגולין למחצה**

**ואין שמין עגלין וסייחין למחצה**

**אלא אם כן נותן לו שכר עמלו ומזונו**

*The working partner must be compensated for his work and expenses.*

7 Zugt di Mishnah:

שמין פרה וחמור  
וכל דבר שהוא עושה ואוכל  
למחצה

However, it is permitted to supply a farmer with a cow or donkey - or any other animal that works or produces - to be raised in exchange for half the profits, even without paying him, because the animal's work or production is his compensation.

The Mishnah continues

מקום שנהגו לחלוק את הולדות מיד  
חולקין

Where it is customary to divide the newborns immediately, the farmer may do so; while

מקום שנהגו לגדל יגדילו

Where it is customary for him to continue raising the offspring until they are grown, he is obligated to do so. Because all deals follow the local norms and standards;

The Mishnah continues

רבן שמעון בן גמליאל אומר  
שמין עגל עם אמו  
וסיח עם אמו

In an arrangement of an animal that accompanies its mother one does not have to pay wages, because the mother takes care of its child's needs.

7

משנה

שמין פרה וחמור  
וכל דבר שהוא עושה ואוכל  
למחצה

However, it is permitted to supply a farmer with a cow or donkey - or any other animal that works or produces to be raised in exchange for half the profits, even without paying him, because the animal's work or production is his compensation.

מקום שנהגו לחלוק את הולדות מיד  
חולקין

Where it is customary to divide the newborns immediately, the farmer may do so; while

מקום שנהגו לגדל  
יגדילו

Where it is customary for him to continue raising the offspring until they are grown, he is obligated to do so. Because all deals follow the local norms and standards;

רבן שמעון בן גמליאל אומר  
שמין עגל עם אמו  
וסיח עם אמו

In an arrangement of an animal that accompanies its mother one does not have to pay wages, because the mother takes care of its child's needs.

8 The Mishnah concludes  
 ומפריז על שדהו  
 ואינו חושש משום רבית  
 One may charge additional rent because of a loan, and it is  
 not considered interest; as the Gemara explains  
 השוכר את השדה מתבירו  
 בעשרה כורים חטין לשנה  
 If one is renting a field for ten measures of wheat a year,  
 ואומר לו תן לי מאתים זוז  
 ואפרנסנה  
 ואני אעלה לך שנים עשר כורין לשנה  
 And he requests a loan to improve the field, and offers to  
 increase the rent to twelve measures,  
 מותר  
 This is permitted, because the improved field warrants a  
 higher rent, and the additional payment is not interest for  
 the loan.

However,  
 אבל אין מפריז  
 לא על חנות  
 ולא על ספינה  
 If he rents a store or a ship, he may not increase the rent to  
 secure a loan to buy merchandise, because the rental item  
 itself is not improved, and so the payment is interest on  
 the loan. Unless  
 חנות  
 לצור בה צורה  
 If the loan is to paint the store, it is permitted, because  
 צבו בה אינשי  
 והוי אגרא טפי  
 A nice store attracts more customers, and warrants a  
 higher rent. Similarly,  
 ספינה  
 לעשות לה איסקריא  
 If the loan is to outfit the ship with a new mast, it is  
 permitted, because  
 שפירא איסקריא טפי  
 אגרא טפי ספינתא  
 This improves the ship, and warrants a higher rent.

8  
**ומפריז על שדהו**  
**ואינו חושש משום רבית**  
*One may charge additional rent because of a loan,*  
*and it is not considered interest;*

**השוכר את השדה מחבירו**  
**בעשרה כורים חטין לשנה**  
*If one is renting a field for ten measures of wheat a year,*  
**ואומר לו תן לי מאתים זוז**  
**ואפרנסנה**  
**ואני אעלה לך שנים עשר כורין לשנה**  
*And he requests a loan to improve the field,*  
*and offers to increase the rent to twelve measures,*  
**מותר**  
*because the improved field warrants a higher rent,*  
*and the additional payment is not interest for the loan.*

**אבל אין מפריז**  
**לא על חנות ולא על ספינה**  
*If he rents a store or a ship, he may not increase the rent*  
*to secure a loan to buy merchandise,*  
*because the rental item itself is not improved,*  
*and so the payment is interest on the loan. Unless*

<b>ספינה</b>	<b>חנות</b>
<b>לעשות לה איסקריא</b>	<b>לצור בה צורה</b>
<i>If the loan is to outfit the ship</i>	<i>If the loan is to paint</i>
<i>with a new mast, it is permitted,</i>	<i>the store, it is permitted,</i>
<i>because</i>	<i>because</i>
<b>שפירא</b>	<b>צבו בה אינשי</b>
<b>איסקריא טפי</b>	<b>הוי אגרא טפי</b>
<i>This improves the ship, and</i>	<i>A nice store attracts more</i>
<i>warrants a higher rent.</i>	<i>customers, and warrants</i>
	<i>a higher rent.</i>

9 The Gemara discusses another transaction involving possible interest:  
 אמר רב  
 ספינתא  
 אגרא ופגרא  
 One may rent out a ship with the condition that the renter is liable for damages from normal use.

However, רב כהנא and רב אסי questioned  
 אי אגרא לא פגרא  
 אי פגרא לא ארעא  
 If it is a rental, he should not be liable for damages, and if he is responsible for the value of the ship, then it is essentially a loan, and the payment is interest?  
 Whereupon  
 שתיק רב  
 Rav was silent, and did not respond.

9

אמר רב  
**ספינתא  
 אגרא ופגרא**

*One may rent out a ship with the condition that the renter is liable for damages from normal use.*

?

*questioned רב אסי and רב כהנא*

<p><b>אי פגרא              לא ארעא</b></p> <p><i>and if he is responsible for the value of the ship,</i></p>	<p><b>אי אגרא              לא פגרא</b></p> <p><i>If it is a rental, he should not be liable for damages,</i></p>
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*then it is essentially a loan, and the payment is interest?*

Whereupon  
**שתיק רב**  
*Rav was silent, and did not respond.*

10 However, the Gemara justifies Rav's ruling from the following ברייתא:  
אין מקבלין צאן ברזל מישראל  
One may not arrange a עסקא where the managing partner shares in the profits, but is responsible for all losses.  
אבל אמרו  
השם פרה לחבירו  
If one assessed the value of his cow, and rented it out, ואמר לו  
הרי פרתך עשויה עלי בשלשים דינר  
ואני אעלה לך סלע בחדש  
And the renter offered to take full responsibility for the cow in exchange for renting it for one Sela a month, מותר  
לפי שלא עשאה דמים מחיים  
אלא לאחר מיתה  
This עסקא is permitted, because he is only responsible if the cow dies or is damaged; but if the animal depreciated, he could still return it as is. Therefore, it is still considered a rental, and not a loan, and the payment is not considered interest.

The Gemara rules  
הלכתא

ספינה אגרא ופגרא

One may charge both a rental fee and for damages.

10

*ברייתא*

**אין מקבלין צאן ברזל מישראל**  
*One may not arrange a עסקא where the managing partner shares in the profits, but is responsible for all losses.*

**אבל אמרו**  
**השם פרה לחבירו**  
*If one assessed the value of his cow, and rented it out, ואמר לו*  
**הרי פרתך עשויה עלי בשלשים דינר**  
**ואני אעלה לך סלע בחדש**  
*And the renter offered to take full responsibility for the cow in exchange for renting it for one Sela a month, מותר*

**לפי שלא עשאה דמים מחיים**  
**אלא לאחר מיתה**  
*This עסקא is permitted, because he is only responsible if the cow dies or is damaged; but if the animal depreciated, he could still return it as is. Therefore, it is still considered a rental, and not a loan and the payment is not considered interest.*

**הלכתא**  
**ספינה אגרא ופגרא**  
*One may charge both a rental fee and for damages.*