

Bava Basra – Simanim

דף קה – Daf 105

פרק ו – המוכר פרות

1. Rav: Tannaim disagree if **הן חסר הן יתר** or **תפוס לשון אחרון** or **מדה בחבל** "by חילוקי"

The next Mishnah states that if the seller says: "מדה בחבל אני מוכר לך הן חסר הן יתר" – "I am selling you this size land *as measured by a rope, whether it is less or more*," thereby using a contradiction of terms, **מדה בחבל** – the phrase "*whether less or more*" nullifies the phrase "*as measured by a rope*," and the second term is followed (allowing insignificant discrepancies). In the reverse case, we would follow the phrase "*as measured by a rope*" (requiring precise measurement). This Mishnah is Ben Nanas's opinion. Rav says the other Tannaim disagree with **בן ננס**, and consider it a *safek* about which term is primary, and would divide the disputed amount. This refers to a Mishnah about a bathhouse which was rented for "twelve gold [dinars] for a year, one gold *dinar* per month." The year was a leap year, and a question arose if the thirteenth month was included in the price of "a year," or must be paid separately at the "monthly" rate. Rabban Shimon ben Gamliel and Rebbe Yose ruled: **יחלוקו את חדש** – *they divide the [extra] month*. Rav explains that they consider it an uncertainty which phrase we should follow.

2. Shmuel: Tannaim argue with **בן ננס** and follow the **מוחזק**

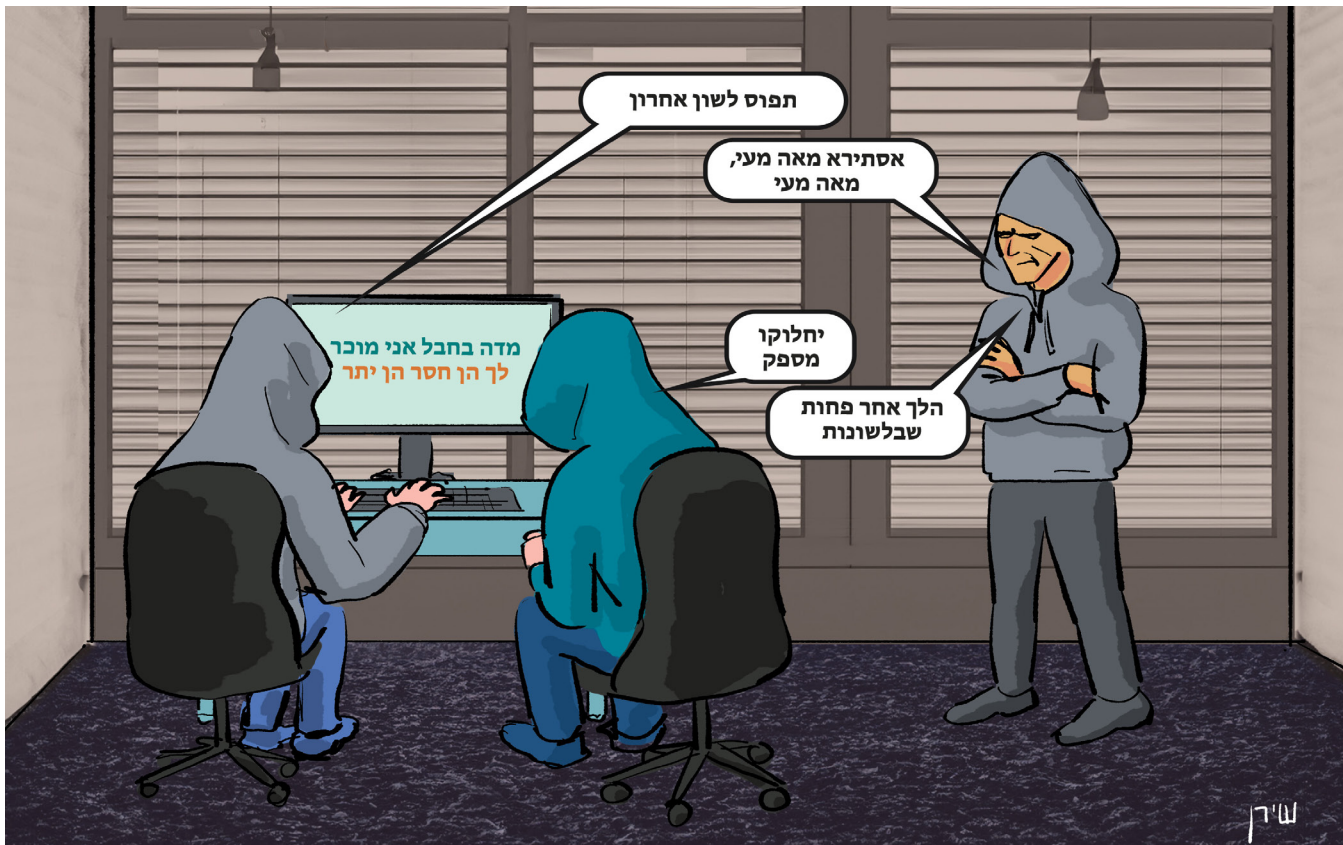
Shmuel also says Tannaim disagree with **בן ננס**, but he says they hold: *follow the lesser of the two expressions*, i.e., whichever term gives the buyer less. They also consider it a *safek*, but hold that the **מוחזק** is protected. Thus, where the seller was already paid, he gets the benefit of both phrases: If he gave too much land, we follow the "**מדה בחבל**" phrase and it must be returned; if he gave too little, we follow the "**הן חסר הן יתר**" phrase and allow the approximate measurement. The Gemara eventually proves that Shmuel himself rules like these Tannaim (and not **בן ננס**), because he explained that the case of the thirteenth rental month, where the Tannaim ruled **יחלוקו**, was **בבא באמצע החדש** – *where [the landlord] came in the middle of the thirteenth month* to demand pay. Therefore, the first half, which already passed, is considered in the renter's "possession," and the second half is considered in the landlord's "possession." Had the landlord come in the beginning of the month, he would collect full pay, and had he come at the end, he would collect nothing.

3. Rav: **איסתרא מאה מעי, מאה מעי**

Rav Huna quoted Rav saying that if a seller offered a price of "**איסתרא מאה מעי**" – *an istera, one hundred ma'os* (the first term equaling 96 *perutos*, and contradicted by the second phrase of one hundred), **מאה מעי** – the buyer pays *one hundred [perutos]*. If he said the opposite, "**מאה מעי איסתרא**" then he only pays *96 perutos*. Thus, Rav rules like **בן ננס**, that we follow the latter expression. The Gemara asks what Rav Huna is teaching, since Rav already informed us that he holds **תפוס לשון אחרון**, because he said: **הוה יהיבנא כוליה למשכיר** – *If I had been there by the incident of the thirteenth rental month, I would have given it entirely to the landlord*, following the latter expression of "*a dinar per month*"!? It answers that Rav's ruling there could have been explained, not based on following the latter of two contradictory expressions, but that **פרושי קא מפרש** – [the landlord] was *merely clarifying* his first expression with his second, to account for a possible leap year and ensure he would be paid for the additional month. Rav Huna taught that Rav follows the **לשון אחרון** even where it contradicts the first.

Siman – Russian Hacker

The hackers who were arguing over proper procedure when a line of code **contradicts itself, some saying to go with the last word, and some saying you split it**, were corrected by their boss who insisted that **you either follow the lesser of the two versions, or you go after the last word even where it can't be an explanation of the first.**



The hackers who were arguing over **proper procedure** when a line of computer script **contradicts itself**, some saying to go with the last word, and some saying **you split it**, were corrected by their boss who insisted that you either **follow the lesser** of the two versions, or you go after the last word even where it can't be an explanation of the first.

3 things to remember

1. Rav: *Tannaim* disagree if by יחלוקי or תפוס לשון אחרון "מדה בחבל הן חסר הן יתר"
2. Shmuel: *Tannaim* argue with מוחזק בן ננס and follow the
3. Rav: מאה מעי, מאה מעי, איסתרא

