

**A** בס"ד

Intro

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

האי עיסקא פלגא מלוה ופלגא פקדון  
When a merchant agrees to sell an investor's merchandise in exchange for half the profits, the חכמים initiated that half the merchandise is considered a loan and the other half a deposit, and thus they also share in any losses.

סתם עיסקא  
תלתא באגר  
ופלגא בהפסד  
In a general עיסקא the merchant and the investor share equally in the losses, however, the merchant gets 2/3 of the profit, while the investor gets only 1/3, because דאי לא מתחזי כרבית  
If they would share equally in the profits as well, the merchant's efforts with the investor's portion would seem like interest for the loan.

The Machlokes regarding למשתי ביה שכרא  
Whether the ליה may sell from the loaned portion of the עיסקא for his personal use?

**A**

האי עיסקא  
פלגא מלוה  
ופלגא פקדון

סתם עיסקא  
תלתא באגר  
ופלגא בהפסד

למשתי ביה שכרא

**B** The Machlokes regarding

אם מת  
נעשה מטלטלין אצל בניו  
If the merchant died, does the investor have a lien on the loaned portion of the עיסקא?

קבלנות  
The worker pays the owner a percentage of the produce.

חכירות  
The worker keeps all the produce, and pays the owner a set amount of produce for the rental.

**B**

אם מת  
נעשה מטלטלין  
אצל בניו

קבלנות

חכירות



**C** The Mishnah's Halachah of

המקבל שדה מחבירו  
ולא רצה לנכש  
אין שומעין לו

If a person took upon himself to plant someone's field but refused to uproot the bad weeds, the worker must still perform ניכוש regardless of whether it was בחכירות or בקבלנות.

The Mishnah's Halachah of

המקבל שדה מחבירו ולא עשתה

If a person took upon himself to plant someone's field and he sowed the field, but it produced very little, and the worker wants to quit working the field;

If it was בקבלנות there is a Machlokes as to at what שיעור the worker may quit.

If it was בחכירות the worker may quit as long as he pays the owner the full amount.

**C**

המקבל שדה מחבירו  
ולא רצה לנכש  
אין שומעין לו

המקבל שדה מחבירו  
ולא עשתה



1 So let's review ...

The Gemara cites several rulings by רבא regarding האי עיסקא

פלגא מלוה ופלגא פקדון

When a merchant agrees to sell an investor's merchandise in exchange for half the profits, the חכמים initiated that half the merchandise is considered a loan and the other half a deposit, and thus they also share in any losses.

1.

Therefore, the נהרדעי say

אי בעי למשתי ביה שכרא שפיר דמי

The merchant, the לווה, may sell the loaned portion of the merchandise for his personal use, because פלגא מלוה

This portion is a loan and completely his.

רבא disagrees and says

ולא למשתי ביה שכרא

The merchant may not sell it for personal use, because

להכי קרו ליה עיסקא

דאמר ליה כי יהבינא לך לאיעסוקי ביה

This loan is known as עיסקא, a business, and the investor loaned it only for the purpose of trade.

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1

Several rulings by רבא regarding

## האי עיסקא פלגא מלוה ופלגא פקדון

When a merchant agrees to sell an investor's merchandise in exchange for half the profits

The חכמים initiated that half the merchandise is considered a loan and the other half a deposit, and thus they also share in any losses

1

רבא says:

**ולא  
למשתי ביה  
שכרא**

The merchant may not sell it for personal use

Because

להכי קרו ליה עיסקא  
דאמר ליה

כי יהבינא לך לאיעסוקי ביה

This loan is known as עיסקא, a business, and the investor loaned it only for the purpose of trade

The נהרדעי say:

**אי בעי  
למשתי ביה שכרא  
שפיר דמי**

The merchant, the לווה, may sell the loaned portion of the merchandise for his personal use

Because

פלגא מלוה

this portion is a loan and completely his

2

2.

רב רב אידי בר אבין says

ואם מת

נעשה מטלטלין אצל בניו

If the merchant died, his heirs inherit the loaned portion and the investor cannot claim them for the father's debt, because as Rashi explains

מטלטלי דיתמי לא משתעבדי לבעל חוב

The father's movable assets are not mortgaged for his debts.

רבא disagrees and says

אם מת

לא יעשה מטלטלין אצל בניו

If the merchant died, his heirs do not inherit the loaned portion and the investor can claim them for the father's debt, because

להכי קרו ליה עיסקא

Since a *עיסקא* loan must always be available for trade, it achieves the status of *קרקע* regarding that it is mortgaged for the father's debts.

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2

2

*Rabba says:*

**אם מת  
לא יעשה מטלטלין  
אצל בניו**

*If the merchant died,  
his heirs do not inherit  
the loaned portion  
and the investor  
can claim them  
for the father's debt*

*Because*

*להכי קרו ליה עיסקא  
Since a *עיסקא* loan must  
always be available for trade,  
it achieves the status of *קרקע*  
regarding that it is mortgaged  
for the father's debts*

*Rabbi Idi bar Avin says:*

**ואם מת  
נעשה מטלטלין  
אצל בניו**

*If the merchant died,  
his heirs inherit  
the loaned portion  
and the investor  
cannot claim them  
for the father's debt*

*Because*

*מטלטלי דיתמי  
לא משתעבדי לבעל חוב  
The father's  
movable assets  
are not mortgaged  
for his debts*

3

3. Before we proceed to the next Halachah, Rashi explains;  
 סתם עיסקא  
 תלתא באגר  
 ופלגא בהפסד  
 In a general עיסקא the merchant and the investor share  
 equally in the losses, however, the merchant gets 2/3 of the  
 profit, while the investor gets only 1/3, because  
 דאי לא  
 מתחזי כרבית  
 If they would share equally in the profits as well, the  
 merchant's efforts in working with the investor's portion  
 would seem like interest for the loan.

For this reason, רבא says;  
 חדא עיסקא ותרי שטרי  
 פסידא דמלוה

If the עיסקא of one type of merchandise is split into two  
 documents, the investor stands to suffer a greater loss,  
 because if one עיסקא had a profit while the other had a  
 loss, the profit of one would not offset the loss of the other  
 for the investor, because he suffers 1/2 of the loss while  
 getting only 1/3 of the profits.

However, if they're in one שטר, it's viewed as one עיסקא,  
 which it is indeed, and the profit offsets the loss first, and  
 the net profit or loss is then shared respectively.

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3

סתם עיסקא תלתא באגר ופלגא בהפסד

The merchant and investor  
 share equally in the losses

However,

|                   |                   |
|-------------------|-------------------|
| The merchant gets | The investor gets |
| 2/3               | 1/3               |
| of the profit     | of the profit     |

Because

דאי לא מתחזי כרבית

If they would share equally in the profits as well,  
 the merchant's efforts in working with the investor's portion  
 would seem like interest for the loan

For this reason,  
 רבא says;

חדא עיסקא ותרי שטרי  
 פסידא דמלוה

If the עיסקא of one type of merchandise  
 is split into two documents,  
 the INVESTOR stands to suffer a greater loss

Because if one עיסקא had a profit  
 while the other had a loss,  
 the profit of one would not offset  
 the loss of the other for the investor,  
 because he suffers 1/2 of the loss  
 while getting only 1/3 of the profits

4

4. Conversely,  
תרי עיסקי וחד שטרא  
פסידא דלוה

If the עיסקא of two types of merchandise is combined into one document, the merchant stands to suffer a greater loss, because, it would be viewed as one עיסקא, and the profit of one must first satisfy the loss of the other before he receives his profit, and he would effectively be taking 2/3 of the loss.

However, if they're in two שטרות, they're viewed as two עיסקות, which they actually are, and the loss of one עיסקא, of which he takes half, is figured separately, and the profit of the other עיסקא, of which he takes two thirds, is figured separately.

Therefore, Rashi says in order to keep a balance  
בחד עיסקא

נכתוב חד שטרא

One עיסקא of one type of merchandise should be written in one document.

ובתרי עסקי

נכתוב ב' שטרות

Two עיסקות of two types of merchandise should be written in two documents.

This is the correct way of figuring each case, and neither the merchant nor the investor would lose more than he should.

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5. הני בי רבא says

הני בי תרי דעבדי עיסקא בהדי הדדי ורווח

If two merchants accepted one investor's merchandise for עיסקא and they made a profit;

וא"ל חד לחבריה תא ליפלוג

If one of the merchants wants to dissolve their partnership before the term expires, he may not do so because

מזלא דבי תרי עדין

The fortune of two people is greater than one person.

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4

4

## תרי עיסקי וחד שטרא פסידא דלוה

If the עיסקא of two types of merchandise is combined into one document, the MERCHANT stands to suffer a greater loss

Because, it would be viewed as one עיסקא, and the profit of one must first satisfy the loss of the other before he receives his profit, and he would effectively be taking 2/3 of the loss

Therefore, Rashi says in order to keep a balance  
בחד עיסקא נכתוב חד שטרא

One עיסקא of one type of merchandise should be written in one document.

ובתרי עסקי נכתוב ב' שטרות

Two עיסקות of two types of merchandise should be written in two documents.

This is the correct way of figuring each case, and neither the merchant nor the investor would lose more than he should.

5

5

רבא says:

## הני בי תרי דעבדי עיסקא בהדי הדדי ורווח

If two merchants accepted one investor's merchandise for עיסקא and they made a profit

## וא"ל חד לחבריה תא ליפלוג

If one of the merchants wants to dissolve their partnership before the term expires, he may not do so

Because

מזלא דבי תרי עדין  
the fortune of two people is greater than one person

**6** Zugt Di Mishnah  
 המקבל שדה מחבירו  
 If a person leased someone's field  
 בחכירות (Rashi)  
 In which the worker keeps all the produce and pays the  
 owner a set amount of produce for the rental;  
 ולא רצה לנכש  
 ואומר לו  
 מה איכפת לך  
 הואיל ואני נותן לך את חכירך  
 The worker refuses to uproot the bad weeds, and claims  
 that this won't affect you, since I will pay you the full  
 amount of produce I owe you;  
 אין שומעין לו  
 He must still perform **ניכוש**, because the owner claims  
 למחר אתה יוצא ממנה ומעלת לפני עשבים  
 This does affect me, because after you leave my field, the  
 bad weeds will grow in.

And as the Gemara adds, even if  
 אי א"ל לבתר הכי כריבנא לה  
 Even if the worker promises to perform a second plowing  
 after the harvest,  
 אין שומעין לו  
 Because the owner claims  
 בזרא דנפל נפל  
 The current weeds will cast seeds, for which a second  
 plowing will not be effective.

And as Rashi points out, certainly if this was **בקבלנות**, the  
 worker pays the owner a percentage of the produce;  
 אין שומעין לו  
 Because this does affect the owner, as his share will be  
 inferior.  
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**6** מקלף

**המקבל שדה מחבירו**  
*If a person leased someone's field*  
*In which the worker keeps all the produce*  
*and pays the owner a set amount of produce*

**ולא רצה לנכש**  
**ואומר לו מה איכפת לך**  
**הואיל ואני נותן לך את חכירך**  
*The worker refuses to uproot the bad weeds,*  
*and claims that this won't affect you,*  
*since I will pay you the full amount of produce I owe you*

**אין שומעין לו**  
*He must still perform* **ניכוש**  
*Because the owner claims*

**למחר אתה יוצא ממנה ומעלת לפני עשבים**  
*This does affect me,*  
*because after you leave my field,*  
*the bad weeds will grow in*

*The Gemara adds...*

**אי א"ל לבתר הכי כריבנא לה**  
*Even if the worker promises to perform*  
*a second plowing after the harvest*

**אין שומעין לו**  
*Because the owner claims*  
**בזרא דנפל נפל**  
*The current weeds will cast seeds,*  
*for which a second plowing will not be effective*

*And as Rashi points out,*  
*certainly if this was בקבלנות, the worker pays the owner*  
*a percentage of the produce;*  
**אין שומעין לו**  
*Because this does affect the owner,*  
*as his share will be inferior.*

**7** Zugt Di Mishnah  
 המקבל שדה מחבירו ולא עשתה  
 If a person leased someone's field and sowed the field, but  
 it produced very little and the worker wants to quit  
 working the field;  
 If this was בקבלנות, it depends;  
 אם יש בה כדי להעמיד כרי  
 חייב לטפל בה  
 If the field did produce, at least, the amount that can be  
 made into a pile, the worker may not quit.  
 But if it was less he is פטור.  
 רבי יהודה disagrees and says  
 מאי קצבה בכרי  
 אלא אם יש בה כדי נפילה  
 It does not depend in the size of a כרי, but rather on the size  
 of the field. If the field produced the amount necessary to  
 replant the same field next year, the worker may not quit,  
 but if it was less he is פטור.

However, as Rashi points out, if this was בחכירות, regard-  
 less of the amount the field produced, the worker may quit  
 as long as he pays the owner the full price of חכירות.

**7** מלני

**המקבל שדה מחבירו ולא עשתה**  
 If a person leased someone's field and sowed the field,  
 but it produced very little  
 and the worker wants to quit working the field

*If this was בקבלנות:*

|   |  |
|---|--|
| <p>רבי יבואר:<br/> <b>מאי קצבה בכרי</b><br/> <b>אלא אם יש בה</b><br/> <b>כרי נפילה</b><br/> <i>If the field produced<br/>             the amount necessary<br/>             to replant the same field<br/>             next year,<br/>             the worker may not quit</i><br/> <b>But if it was less<br/>             he is פטור</b></p> | <p>תנא קמא:<br/> <b>אם יש בה</b><br/> <b>כרי להעמיד כרי</b><br/> <b>חייב לטפל בה</b><br/> <i>If the field did produce,<br/>             at least, the amount<br/>             that can be made<br/>             into a pile,<br/>             the worker may not quit</i><br/> <b>But if it was less<br/>             he is פטור</b></p> |
|---|--|

*However, if this was בחכירות:*  
 Regardless of the amount the field produced,  
 the worker may quit  
 as long as he pays the owner the full price of חכירות

8 The Gemara cites several opinions in the קמא's shiur of כדי להעמיד כרי

And the Gemara on Amud Beis cites several opinions in כדי נפילה's shiur of

רבי אמר רבי יוחנן ארבעה סאין לכור  
Four סאה per כור;

רבי אמר דיליה אמר שמונת סאין לכור  
Eight סאה per כור;

And the Gemara explains בשני דרבי יוחנן הוה שמינה ארעא In the time of רבי יוחנן the land was rich, and even four סאה was sufficient to sow a כור. בשני דרבי אמר הוה כחישא ארעא While in the time of רבי אמר the land was poor, and eight סאה was needed to sow a כור.  
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The Gemara proceeds with several other matters for which דבי רבי ינאי gave the various שיעורים, and completes the Daf with other Halachos which have similar שיעורים.

8 The Gemara cites several opinions in the קמא's shiur of כדי להעמיד כרי

The Gemara cites several opinions in כדי נפילה's shiur of

רבי אמר דיליה אמר  
שמונת סאין  
לכור

הלני דרבי ינאי  
פופ כחילא ארעא

רבי אמר רבי יוחנן  
ארבעה סאין  
לכור

הלני דרבי יוחנן  
פופ לאיניפ ארעא

The Gemara proceeds with Several other matters for which דבי רבי ינאי gave the various שיעורים and completes the Daf with Other Halachos which have similar שיעורים