

Bava Metzia – Simanim

דף קד – Daf 104

פרק ט – המקבל שדה מחבירו

1. "שמא בעלמא אמרי לך"

The Mishnah taught that if the tenant said, "Lease me בית השלחין זה – *this irrigated field*," he may deduct from the rent if the stream dried up. The Gemara asks that the landowner should be able to say: שמא בעלמא לך – *I only said it to you as a name*," meaning that he called it an irrigated field simply because it was commonly referred to that way, but not as a stipulated term for the rental. A Baraisa teaches that if someone offers to sell "a *beis kor* of earth" (implying an area for planting a *kor* of barley seed, or 75,000 *amos*), the sale is valid even if the property is only half that size, שלא מכר לו אלא שמא – *because he only sold him a name* (i.e., a property by that title), provided it is popularly called a "*beis kor*." Similarly, if one offers to sell a vineyard, the sale is valid even if it contains no grapevines, provided it is popularly called a "vineyard." Shmuel answered that the Mishnah's case is where the tenant spoke to the owner, so the request for "an irrigated field" is to be taken literally. Ravina said that even if the owner spoke, since he says "this" field, they are apparently standing in it. Since the mention of "irrigated field" would be superfluous, it is understood to mean: בית השלחין כדקיימא השתא – *an irrigated field as it now stands*, with its water source.

2. Commitments from renter to compensate for leaving field fallow (אסמכתא)

The next Mishnah states that if one leased a field והובירה – *and left it fallow*, failing to plow or plant it, the field's production capabilities are assessed, and the tenant pays the predetermined percentage of that amount to the owner, because their initial contract states: אם אוביר ולא אעביד אשלם במיטבא – *"If I leave it fallow and do not work it, I will pay according to the best."* Later, the Gemara records an incident in which a tenant said, "If I leave your field fallow, I will pay you a thousand *zuz*," and he left one-third of it fallow. The Nehardeans said he must pay a third of this amount, but Rava said this is an אסמכתא (a commitment made without expecting to keep it), which is not binding. The Gemara objects that our Mishnah proves such a commitment is binding, and answers: התם לא קא גזים – *there in the Mishnah, he does not exaggerate* the payment amount; in this case, because he committed to an extraordinary penalty, גוזמא בעלמא הוא דקגזים – *he is merely exaggerating*.

3. The details of an עיסקא arrangement

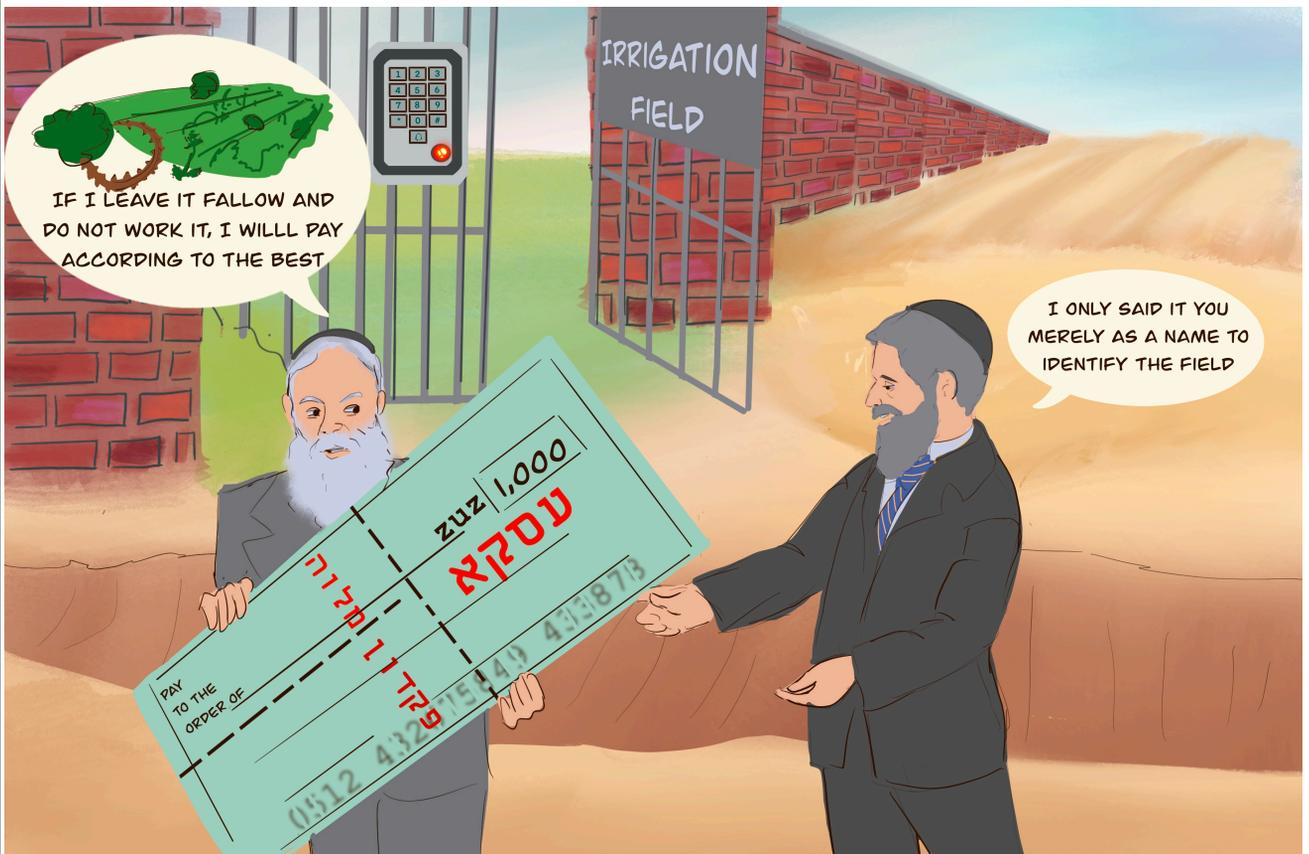
The Nehardeans said: האי עיסקא – *the merchandise of an iska* business arrangement (where one partner provides the capital and the other manages the investment) פלגא מלוה ופלגא פקדון – *is considered half a loan and half a deposit*, so any losses are divided evenly, which the Rabbis instituted as agreeable to both parties. They concluded that since half is a loan, אי בעי למשתי ביה שכרא – *if [the manager] wishes to drink beer* by selling his half of the merchandise (instead of investing it), he may. Rava disagrees: להכי קרו ליה עיסקא – *this is the reason they call it an "iska"* (lit., *involvement*), so the investor can tell the manager: כי יהבינא לך לאיעסוקי ביה – *"When I gave it to you, it was to be involved with it* for the investment, and not to drink beer with its proceeds." By requiring the manager to be involved in generating a profit for himself, he will work harder towards its success. Rav Idi bar Avin said that if the manager dies, the loan half of the merchandise is considered like מטלטלין in his sons' possession, and the investor cannot collect it (like the law of an ordinary loan). Rava disagreed, and said it is called an "עיסקא" to signify that the investor relies on its remaining available for collection.

Siman - Code

The renter who used the code to open the gate on the field called "the irrigated field" even though it wasn't irrigated at all, and promised the owner that if he leaves the field fallow he will pay him an exaggerated amount of one thousand *zuz*, was renting the field with עיסקא money he received from an investor, which was half loan half deposit.

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3 things to remember

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3. The details of an עיסקא arrangement

