

## OVERVIEW of the Daf

### 1) A managing partner (cont.)

Rava's ruling in the incident involving the children of R' Illish is unsuccessfully challenged.

The Gemara cites support for the assertion that R' Nachman did not intend to issue a ruling.

Rav and Shmuel disagree whether it may be stipulated that the managing partner's wages will come from the profits that exceed a third of the capital.

An inconsistency in Rav's position on this matter is noted.

Two resolutions to this challenge are recorded.

A related incident is presented.

### 2) Giving an animal to a herdsman

A Baraisa presents the parameters of giving an animal to a herdsman to increase the value of the animal.

The Gemara emends the end of the Baraisa.

Another Baraisa on the same topic is presented.

A point in the Baraisa is clarified.

Two related incidents are recorded.

### 3) Money

R' Nachman ruled that money is treated as though it is already divided.

The Gemara clarifies that this ruling is limited to where the coins are of equal value.

The Gemara relates that R' Chama thought it was permitted to rent out money but he was incorrect and ultimately lost his money.

### 4) Cases that resemble interest but are permitted

Rava presents two cases that resemble interest but are, in fact, permitted.

An actual case of the second type of arrangement is presented.

**5) MISHNAH:** The Mishnah begins with a discussion related to giving an animal to a herdsman to raise and concludes with a ruling that permits a landowner to increase the rent of his tenant despite the fact that he loaned him money.

### 6) Landowner

A Baraisa is cited that discusses the parameters of a landowner's increasing the rent of his tenant who borrowed money.

R' Nachman in the name of Rabbah bar Avuha offers circumstances when it is permissible to raise the rent in consideration of a loan.

### 7) Renting a ship

Rav rules that a renter can be required to pay the rent in addition to the damages.

R' Kahana and R' Assi challenge this ruling.

Rav is silenced by the challenge but R' Sheishes offers a resolution. ■

## Distinctive INSIGHT

*Is "rental" of coins a form of a loan?*

מרא הדרא בעינא וידיע פחתיא , זוזי לא הדרי בעינייהו ולא ידיע פחתיא

The Gemara tells the unfortunate story of R' Chama who rented out cash for a daily fee. There were a number of reasons why R' Chama did not feel that he was lending money for interest. First of all, he did not use the word "loan" in his dealings, but rather "rental". Secondly, Tosafos (ד"ה אוגר) explains that in a regular loan, the borrower assumes all risks of mishap (אונס) which may occur to the money until it is repaid. Here, R' Chama maintained full responsibility for his money while it was with the receiver. If anything unforeseen would happen to the money, R' Chama would not ask the "borrower" to return the money. Nevertheless, R' Chama suffered tremendous financial setbacks, and he lost all his money, which is a fulfillment of the curse pronounced against those who lend with interest (see later, 71a).

The Gemara explains the error of R' Chama. He mistakenly thought that rental for cash would be permitted, just as it is when one rents his tools. This was, however, an error, as a tool is returned intact, and any depreciation is observable. The rental fee is seen as a consideration for usage of the tool. Money, however, is given to be spent and used, and the coins returned are not the original ones. The fee paid for money is not for their depreciation, but only for the time-value of holding onto the money for a specified term.

Rashi and Ri"ף conclude from this Gemara that the only time it is permitted to rent a tool and charge a fee is when the object is returned intact and that it undergoes some degree of depreciation. Tosafos notes that this suggests that if either of these conditions is absent, the arrangement is prohibited. This would mean, claims Tosafos, that it would be prohibited to rent gold jewelry, as these do not experience any noticeable depreciation, and the rental fee would be just for the time-value of the object and not as payment for the usage itself. Yet, the Tosefta (4:2) explicitly permits rental of ornamental coins where they are not spent by the renter.

א"ר explains that the Tosefta is dealing with a case where the renter accepted responsibility only for אונס but not for גניבה ואבדה. Because of this limited responsibility, the transaction does not appear as a loan, and it is permitted to "rent" even an item which does not experience any depreciation.

Tosafos answers that the case of R' Chama teaches that if either of two conditions is present, the rental is allowed. It is permitted when the item must be returned intact, as we find when renting jewelry or ornamental coins, or where there is clear depreciation and the fee is paid as compensation for that. ■

## HALACHAH Highlight

### Is it permitted for a third party to pay interest?

שרי ליה לאיניש למימר ליה לחבריה הילך ד' זוזי ואוזפיה לפלניא  
 It is permitted for a person to say to his friend, "Take four zuz and loan money to Ploni."

The Gemara states that it is permitted for Reuven to give money to Shimon and instruct Shimon to give a loan to Levi. Although Shimon is loaning money and profiting from that venture, it is permitted since the Torah only prohibited interest that goes from the borrower to the lender. Tosafos<sup>1</sup> writes that if Reuven were to go to Levi and ask Levi to reimburse him for the money that he (Reuven) gave to Shimon the transaction would be prohibited since that would give the appearance as though Reuven was acting as an agent of Levi when he gave the money to Shimon. Ritva<sup>2</sup>, however, disagrees and asserts that as long as Levi did not commit himself to pay Reuven that money it is permitted. Chochmas Adam<sup>3</sup> adds that if Levi did commit himself to reimburse Reuven for the money he gave Shimon the transaction is Rabbinically prohibited, even according to Ritva.

Poskim mention additional cases that may be prohibited even though the interest is not paid by the borrower. Rosh<sup>4</sup> writes in the name of earlier authorities that the borrower may not approach the lender and inform him that a third party will give the lender additional funds in consideration of the loan to the borrower. The reason is that it appears as though the third party is acting as the agent of the borrower and therefore prohibited. Gra<sup>5</sup> explains that this is similar to the case discussed in the Gemara Kiddushin (7a) of Reuven who gives money to a woman and states that with that money she should

## REVIEW and Remember

1. What is the point of dispute between Rav and Shmuel concerning payment of a managing partner?

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2. How long is a herdsman required to raise newborn animals?

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3. What caused R' Chama to lose his wealth?

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4. How did R' Sheishes explain Rav's ruling that one may collect rent and damages of a boat?

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be betrothed to Shimon. The principle that applies in that case is that the person acquiring something does not have to be the one who puts out the money for the transaction. Similarly, even if the borrower does not pay interest to the lender, but it is evident that the third party is giving the money for the borrower, it is prohibited. A second case that may be prohibited is when the borrower appeases the third party to give money to the lender. Beis Yosef<sup>6</sup> cites a dispute whether it is permitted, and concludes that one may rely on the lenient position since it is only an issue involving Rabbinically prohibited interest. ■

1. תוס' קידושין ו': ד"ה דארווח.
2. ריטב"א ד"ה אמר רבא.
3. חכמת אדם כלל קלי"ב סעי' א'.
4. רא"ש ס"י מ"ו.
5. גר"א שם ס"ק כ"ה.
6. בית יוסף ליו"ד ס"י ק"ס. ■

## STORIES Off the Daf

### Breaching contract

"תרי כותאי דעביד עסקא ..."

Today's daf continues to discuss which business agreements involve prohibited interest and which do not.

A certain ba'al teshuvah had no idea that lending money for interest was a Torah prohibition. When he mentioned to a religious man in passing that he lent money to a certain Jew for excellent returns, his friend was appalled and gently explained that this is forbidden. This

information was exceedingly upsetting to the ba'al teshuvah since he understood that all the interest that he had expected to accrue was irrevocably lost income. Understandably, he wanted to get his money back to invest in a halachically-permitted business.

When he approached the borrower and explained that he didn't want the interest after all, the man was ecstatic. But when he explained that he wanted his capital back immediately, the man's joy turned to intense agitation. "But I need that money for a full year, like it says in our contract. It would be very difficult for me to obtain a loan even at

the interest rates I was paying you."

But the ba'al teshuvah insisted and the two went to the Mishnah L'Melech for adjudication. He answered, "Clearly the entire reason why the ba'al teshuvah agreed to lend the money in the first place was the profit he hoped to earn from the interest. There is no doubt that now that he has finally learned that the interest is prohibited, the entire agreement is absolutely nullified and the ba'al teshuvah has every right to demand his money immediately."<sup>1</sup> ■

1. משנה למלך, פ"ח מהל' מלוה ולוה, הל' ה'