

OVERVIEW of the Daf

1) A rented donkey that is taken into the service of the king (cont.)

The Gemara unsuccessfully challenges the second resolution of the challenge to Shmuel's position that the question of whether the owner has to provide a renter a replacement animal when the rented donkey was taken into service of the king relates to whether the animal was taken in the direction it was travelling.

R' Pappa issues a related ruling.

2) A rented donkey that dies during the rental period

Rabbah bar R' Huna in the name of Rav rules that if a rented donkey dies midway through the journey the renter must pay for the time he had the animal in his possession and has nothing else but the right to complain that he received a weak animal.

The exact details of the case are clarified.

Rav's ruling is unsuccessfully challenged.

Another unsuccessful challenge to Rav's ruling is presented. The Gemara persists in its challenge but unsuccessfully.

3) A boat that capsizes midway though its voyage

A Baraisa discusses whether a renter must pay for a boat that capsizes midway through its voyage.

The Gemara analyzes the ruling presented in the Baraisa.

4) Unloading a boat midway through the voyage

A Baraisa discusses the responsibility of a renter who decided to unload his cargo midway through the voyage.

The exact details of the case are clarified.

5) Renting a donkey

A Baraisa discusses what use is included in the rental of a

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Distinctive INSIGHT

Why pay for half the way?

לעולם דלא שכיח לאוגורי ומשום דאמר ליה אילו בעית למיתי עד הכא לאו אגרא בעית למיתב

The Gemara analyzes the statement of Rabba bar Rav Huna in the name of Rav, and we determine that if Reuven rents an ox to Shimon to travel from one city to the next, and the ox dies along the way, Shimon must pay for the segment of the rental which he received, even if he is now stranded and there is no possibility to rent another animal at his breakdown position to complete his trip. The reason for this halacha is that Reuven claims that if Shimon had intended to travel to this point he would have had to pay for transportation until this distance, so he should pay now at least for the portion of the trip that was completed, even though he is now stranded short of his destination.

Tosafos asks why Shimon needs to pay for transportation for a segment of the trip which leaves him short of his destination. Several approaches are offered to explain this halacha.

Tosafos answers that when the Gemara says that "there are no donkeys to rent at this place," it means that donkeys are not available at standard prices, but they are available at premium prices. In other words, had the renter really been stranded, he would not have to pay the fee to travel to a forlorn destination.

Tosafos also answers that the case is where the renter is actually stranded and cannot find another animal to transport his merchandise further, but he is able to sell his merchandise there, where he became stranded. In fact, this is a market which other merchants use to sell their goods. The renter had preferred to go to a different city where he would have made a bigger profit, but his being at this location is worthwhile. This is why he must pay for travel until this point.

Rashba explains that although the merchant cannot find another animal to take him further, that is only a temporary problem. He will store his goods at a local inn and in a day or two he will find a way to finish his trek to the original destination to sell his wares. Rashba points out that the renter therefore pays for the first leg of the journey, because it is still within the realm of normal occurrences to travel in segments.

Maharal explains that the case is that the donkey was not rented for hauling the merchandise, as in this case the renter would not have to pay for half of a job. Rather, the case is where the donkey was rented for the renter to ride upon. Even though he cannot find another donkey at this place, or if he could find one but only at a premium price, Reuven, the owner of the donkey, claims that Shimon could now walk the rest of the way. ■

REVIEW and Remember

1. What recourse does a renter have if the donkey he rented dies midway through his journey?

2. What is a renter obligated to pay if the boat he rented capsizes midway through the voyage?

3. When does the owner have the right to complain if a renter unloads his merchandise midway through the voyage?

4. What advice does Abaye offer to people purchasing fish?

HALACHAH Highlight

Selling land for sixty years or more

מנין למוכר שדהו לששים שנה שאינה חוזרת ביובל

If one sells his field for sixty years – the field does not go back [to the original owner] at yovel.

The Gemara cites an exposition that teaches that *yovel* does not affect a sale of land for a period of sixty years and the buyer is able to keep the land for the entire duration of the agreement. Rashi¹ explains that the rationale behind the obligation to return land to the original owner during *yovel* is that the Torah does not want someone to sell land forever. Therefore, *yovel* applies only to those sales that otherwise would be forever but land that was sold for a specified period of time is not encompassed by this obligation since it will revert back to the original owner even without the existence of *yovel*. Sefer Chinuch² writes that the source for this exposition is from the fact that the Torah does not write that land may only be sold until the *yovel* year. Instead the Torah writes that one should not make a permanent sale of land which implies that a sale of land that is not permanent is allowable and not effected by *yovel*.

Rambam and Ramban disagree about the mechanics of the halacha that land returns to the original owner during *yovel*. Rambam³ asserts that the pasuk's instruction that land should not be sold permanently creates a prohibition to sell land in a permanent way. Ramban⁴ disagrees and argues that the pasuk does not create a prohibition; rather the intent of the Torah is that *yovel* undermines (מפקיע) the sale and as a result the land

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donkey.

R' Pappa further clarifies the intent of the Baraisa.

Another Baraisa discusses the rental of a donkey and what limitations apply if the donkey is hired specifically for a man or for a woman to ride.

R' Pappa clarifies the intent of the Baraisa.

Abaye infers from the previous statement that the weight of a fish is determined by the size of its belly.

The significance of this statement is clarified. ■

reverts back to its original owner.

Later authorities debate whether there is an upper limit for the sale of land. Minchas Chinch⁵ asserts that as long as the sale is not permanent it is valid and does not go back to the original owner even if it is for thousands of years. Agudas Eizov⁶ rejects the assertion that a sale of land for thousands of years will not be returned to the original owner during *yovel*. One who sells land for thousands of years certainly has *אוש* which is the equivalent of making the field ownerless. An ownerless field does not return to the original owner during *yovel*. Therefore, since this sale was the cause of the land's becoming the permanent property of the buyer it is subject to the laws of *yovel* and must be returned during the *yovel* year. ■

1. רש"י ד"ה והארץ.
2. ספר החינוך מצוה שלי"ט.
3. רמב"ם ספר המצוות ל"ת רכ"ז.
4. רמב"ן בהשגות על ספר המצוות.
5. מנחת חינוך מצוה שלי"ט אות י"ח.
6. אגודת אזור סוגיא דקנין פירות אות ז'. ■

STORIES Off the Daf

"If a person rented a ship..."

"השוכר את הספינה ופרקה לה בחצי הדרך..."

A certain group of bochurim needed to travel from Lakewood to New York and back. They decided to rent a car together, since this was the most convenient way to make the trip. When they arrived in New York, two of the bochurim changed their plans and decided to stay in New York. They had all paid the entire price of the car rental, and they admitted that it was only fair so as not to cause any disadvantage to the rest of the party if someone changed his mind. Why should the rest of them be required to find people who needed to travel or pay more if some changed their mind?

Even though they had planned to drive home with two empty seats, the driver found one bochur who needed to return to Lakewood and was willing to pay a fifth of the price of the return trip.

After they returned home, the two who had stayed behind heard about the transaction. They asked the driver to give them the money he had received from the bochur who had joined their trip home. After all, he had clearly sold their seat.

But the driver claimed that the money belonged to him. "We had an arrangement and you paid your share. If I later found someone to take the empty seat back to Lakewood this is no concern of yours since you would have had to pay the rest regardless. It's not as if you found the bochur who joined us or we had any kind of arrangement in the event such a bochur was found."

They decided to put this question to Rav Moshe Feinstein, zt"l. "This is similar to the Gemara in Bava Metzia 79. There we find the case of someone who hired a ship to take his merchandise to a distant destination but decided to disembark in the middle of his trip. But if he found another merchant to rent the ship for the rest of the way, he may rent the ship to the second merchant.

"But of course your case is somewhat different since you were already obligated to pay the way back and then the driver found a replacement."

After a long discussion in our sugyah, Rav Moshe concluded, "This is an unresolved question, so the money should be split. Half should go to the driver, and the two bochurim should split the other half."¹ ■

¹אג"מ, חו"מ, ח"א, ס' ע"ד ■