



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Bava Metzia Daf Samach Gimmel

- We have learned that **Rav** said, one may make a deal to pay for produce at the current market price and not take delivery until a later date (even though the market price may change), but one may not do so if the deal is that if the market price increases the buyer may be given back its cash value instead of the produce (or any other item instead of the produce named in the deal). **R' Yannai** said, there is no difference if the buyer gets the produce or any other item (as long as the arrangement was mutar to begin with).
 - **Q:** The Braisa of **R' Oshaya** (referenced earlier) says that as long as the borrower has the item in his possession, the item of a forward contract may be substituted for any other item and it is still mutar. This refutes **Rav**!? **A: R' Huna in the name of Rav** said, the case in the Braisa is where the lender made meshicha on the item at the time of the agreement. Therefore, he was actually koneh the item, which ended the loan, and takes away any concerns of ribis.
 - **Q:** If that is the case, that would seem obvious, so why would the Braisa need to teach this? **A:** The case was that he didn't actually make a kinyan, but that the borrower designated a corner for the produce belonging to the lender. That designation is enough for the produce to be considered to belong to the lender and take away any concern of ribis.
 - **Shmuel** said, the Braisa may agree with **Rav** that there is a concern for ribis if the item is substituted. However, the Braisa follows the view of **R' Yehuda** who holds that when a ribis concern is present only on one side of the transaction (e.g. if they decide to substitute, but there is no concern if they decide not to substitute), it is mutar.
 - The view of **R' Yehuda** is found in a Braisa. The Braisa says, if a borrower doesn't have the money to repay the loan, and so he gives his field to the lender with the understanding that if he cannot come up with the money, the field is being sold to him as repayment of the loan, and if he is able to come up with the money, the "sale" is retroactively Batul: If during the time before the sale is final or batel the borrower is the one who eats the produce, it is mutar. If the lender is the one eating the produce, it is assur (because if the sale is ultimately batel and he gets back his money of the loan, the produce that he ate is ribis). **R' Yehuda** says that in both cases it is mutar. **Abaye** explained, the machlokes is based on whether when ribis is a concern based on one possibility of the transaction, there is a problem of ribis (the **T"K** says that it is and **R' Yehuda** says that it is not). **Rava** said, the machlokes is whether one may take ribis on the condition that he will return it (the **T"K** says that he may not and **R' Yehuda** says that he may).
 - **Rava** said, the same way that **R' Yannai** says that the produce in a forward contract may be substituted for cash, we can also say that cash can be substituted for another item as well, which would therefore mean that one may enter into a forward transaction which has an established market price even if the seller does not have possession of the items (because he can use the money that he gets to go and buy the items at the current market price).
 - **Q: R' Pappa and R' Huna the son of R' Yehoshua** asked **Rava**, the Braisa of **R' Oshaya** said it is mutar only if the seller has the items in his possession!? **A: Rava** said, that was a case of loan (so no cash was actually given), whereas I am talking about a sale (where cash was given to the seller).

- **Rabbah and R' Yosef** both said, what is the reason that the **Rabanan** allow one to enter into a forward contract when there is an established market price even if he doesn't have the items in his possession? It is because even if the price rises, the buyer can say, had I kept the money and bought it on my own I would now have items with increased value. Therefore, the increased value that he is being given by the seller is not viewed as interest.
 - **Q: Abaye** asked **R' Yosef**, if that is true, that there is no issue of ribis when the lender is not benefitting more than he could have benefitted had he not given the money, then a person should also be allowed to lend a se'ah of produce for a return of a se'ah of produce, for the same reason, and yet we know that it is assur!? **A: R' Yosef** said, the case of a se'ah for a se'ah is a case of a loan, whereas we are discussing a case of a forward contract, which is a case of a sale.
 - **Q: R' Adda bar Abba** asked **Rava**, the buyer is making some money on this deal, by not having to pay a broker on the deal, and instead goes direct with a forward contract (so it is not the same profit he would have had if he would not have entered into the contract)!? **A: Rava** said, in fact the buyer must pay the seller this broker's fee. **R' Ashi** said, if a person has cash, sellers will find him, and such a person will not need a broker to get a deal done.
- **Rabbah and R' Yosef** both said, if a forward contract is entered into before there is an established market price, in order for this contract to be mutar the buyer must go to the threshing floor and actually view the produce.
 - **Q:** What is the purpose of seeing the produce? It can't be so that he is koneh the produce then, because seeing the produce does not make a kinyan!? It can't be so that the seller should become subject to the curse of "mi shepara" if he then backs out, because that happens without the buyer going to see the produce, because he has already received payment!? **A:** It accomplishes that the seller become subject to mi shapara. The reason is that when someone buys produce so early in the season he typically advances money to a few sellers, and will eventually settle with one and take back his money from the others. Therefore, without going to see the produce the seller can say that he never thought the sale was truly finalized. However, once the buyer goes to see the produce, he establishes that this deal is a full and final deal, and at that point the seller becomes subject to mi shepara.
 - **R' Ashi** said, if that is the reason that he must see the produce, then even if the buyer meets the seller in the street and tells him he is serious about buying the produce, that would be enough for the seller to rely on him, and the seller would become subject to mi sheparah at that time.
- **R' Nachman** said:
 - The general rule of ribis is that any reward for waiting for one's money is assur.
 - If one gives money to a wax dealer when it is usually sold for 4 pieces per zuz, and the wax dealer tells him he will give him 5 pieces per zuz if he pays now, it is mutar if the wax dealer has the wax in his possession at the time.
 - **Q:** This seems obvious (based on the Mishna quoted earlier)!? **A:** The chiddush is that it is only mutar if he has actual possession of the wax. However, if he has already bought the wax from his suppliers but has not yet taken delivery, he would not be able to enter into this transaction with the buyer.
 - If one borrows small coins and then realizes he was given more than he had asked for, if the extra amount is such that one can make a mistake about it, he must return it. If it is not, we assume it was a gift from the lender, and the borrower may keep this extra amount.
 - **Q:** What is the case of an amount that one makes a mistake about? **A: R' Acha the son of R' Yosef** said, if the mistake was in multiples of tens or of fives, we assume it was a counting mistake and it must be given back.
 - **Q: R' Acha the son of Rava** asked **R' Ashi**, what if the lender is known not to be a generous person (and is unlikely to have given a gift)? **A: R' Ashi** said, the borrower may still keep it, because we assume that the lender may have once

stolen something from him and is returning it in this way as an overpayment. In fact, a Braisa says that this is a valid form of returning a stolen item.

- **Q: R' Acha** asked, what if the lender is someone new to this area, so there is no chance that he stole something from the borrower? **A: R' Ashi** said, we say that maybe someone else stole something from the borrower, and that thief asked the lender to put some extra money in the loan as payment for him.