



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

### Bava Metzia Daf Ayin Zayin

- The Gemara had quoted a Braisa which said that if workers back out of their deal (they agreed to do a project for 8 dinar and they stopped working after completing only half) mid project, we assess how much work they have done and give them 4 dinar (if they completed half) even if it will now cost the employer another 6 dinar to complete the project. The Gemara now says, we see from here that the **Rabanan** (the **T"K**) hold that the workers always get the upper hand.
  - The Braisa said, if they want they can complete the project and collect their full wages of 8 dinars.
    - **Q:** This seems obvious!? **A:** The Braisa means to say that if costs of labor increased, but the employer was able to convince the workers to complete the project, we would think that the workers can afterwards demand that the employer pay the higher rate. The employer can refuse to do so and say that he only meant to pay the original rate, but would also add food and drink for them while they work.
  - The Braisa said, if the work done has the value of 4 dinar (and the rate for labor has remained constant), he must give them 4 dinar.
    - **Q:** This seems obvious!? **A:** The Braisa is talking about where the workers were originally hired at a rate that was a zuz higher than the going rate. At the time they stopped working, the going rate increased to the rate that they were being paid. We would think that they can tell the employer, "you hired us at a rate of a zuz more than the going rate, and therefore you need to add a zuz to the going rate now as well". The Braisa teaches that he can stick to the current rate, because that is the rate that was originally agreed to.
  - The Braisa said, **R' Dosa** said, we look at what it will cost the employer to complete the project. If it will cost him another 6 dinars, he only needs to give the workers 2 dinars. The Gemara says, we see from here that **R' Dosa** holds that the workers always have the lower hand (when they are the ones to have left mid project).
  - The Braisa then continued with **R' Dosa** who said that the workers can decide to complete the project and get paid their full fee of 8 dinars.
    - **Q:** This seems obvious!? **A:** The Braisa is talking about where the price of labor decreased and the employer therefore dismissed the employees (hoping to find cheaper labor), but the employees were able to convince the employer to allow them to complete the project. We would think he can tell them, "I allowed you to complete, but at a lower rate of pay". The Braisa teaches that they can tell him, "We never agreed to less pay, but we worked with the understanding to do a much higher quality job for you".
  - The Braisa then continued with **R' Dosa** who said, if the work still to be done has the value of 4 dinar, he must give them 4 dinar.
    - **Q:** This seems obvious!? **A:** **R' Huna the son of R' Nosson** said, the case is where the workers were originally hired at a rate that was a zuz lower than the going rate. At the time they stopped working, the going rate decreased to the rate that they were being paid. We would think that the employer can tell the workers, "I hired you at a rate of a zuz less than the going rate, and therefore I will give a zuz less than the going rate now as well". The Braisa teaches that they can stick to the current rate, because that is the rate that was originally agreed to.
  - **Rav** said, the halacha follows **R' Dosa** (the workers have the lower hand when they back out of the deal).

- **Q:** We find that **Rav** says that a worker always has the right to back out of a deal, even midday, without being penalized!? You can't answer that **R' Dosa** makes a differentiation between a day laborer and someone who is hired to complete a project, because a Braisa says, if a worker is hired and because of an oneis he must stop midday or mid project (there is no distinction made between a day laborer and a worker hired to complete a project), he gets his proportionate rate of pay. This Braisa must follow **R' Dosa**, because according to the **Rabanan**, that would be the case even if he left for a reason other than an oneis! Clearly we see that **R' Dosa** doesn't differentiate between a day laborer and a worker hired to complete a project!? **A: R' Nachman bar Yitzchak** said, in fact **R' Dosa** holds there is a difference between the two types of workers (a daily worker is not penalized and a project worker is), but that is only where there is no loss to the employer for leaving the project half done. This Braisa just quoted is discussing where there is a loss caused by leaving the project half done, and therefore **R' Dosa and the Rabanan** would both hold that both types of workers would be penalized.

  - **Q:** The Mishna had said, any worker who changes from the instruction he was given, has the lower hand when determining how much he will be paid, and whoever backs out of a deal has the lower hand as well. Now, the first part of this statement makes sense, because it anonymously follows the view of **R' Yehuda** (from a later Mishna). However, the next part of the statement presumably comes to include the case of the day laborer, and teaches that even he is penalized (by having the lower hand), which must follow **R' Dosa**, and proves that **R' Dosa** holds such a worker is penalized as well!? Again, this is problematic according to **Rav**!? **A: R' Dosa** said that both types of workers are penalized. **Rav** only paskened like him with regard to a project worker, but did not pasken like him with regard to a day laborer. **A2:** We can also answer that when the Mishna says "whoever backs out of a deal has the lower hand as well", it does not refer to a day laborer, rather it refers to the case of the following Braisa, which explains our Mishna. The Braisa says, what is the case of "whoever backs out has the lower hand"? If someone sold a field for 1,000 zuz, and the buyer gave 200 zuz and then one of them decided to back out, if the seller is the one who backs out, the buyer has the upper hand – he can either ask for his money back or ask for a piece of the field equal to 200 zuz, from the best part of the field. If the buyer is the one who backed out, the seller has the upper hand – he can either just give back the money, or he can give him a piece of the field worth 200 zuz, from the lowest quality part of the field. [Based on this Braisa, we can say that this is the case that the Mishna was referring to when it said "whoever backs out has the lower hand"]. **R' Shimon ben Gamliel** says, we teach them to do something so that they cannot back out of the deal. How do we do this? We tell the seller to write a document that says "I am selling the field to the buyer for 1,000 zuz, of which he has already given me 200 zuz, and I will collect the remaining 800 as a loan". In that case, the buyer is immediately koneh the entire field, and he has an obligation to pay the remaining amount.
  - The Gemara discusses the Braisa that was just quoted. The Braisa said that if the seller backs out, the buyer can collect from the best of his land.

    - **Q:** The Gemara thought this means that he can even collect from a different field of the seller, if that other field is his best property. Based on this, the Gemara asks, why is the buyer different than any creditor, who is paid with average land? Also, why can the seller not simply pay with the land that is part of this transaction? **A: R' Nachman bar Yitzchak** said, the Braisa

means, he is paid from the best part of *that land* that is the subject of the transaction. **A2: R' Acha the son of R' Ika** says, it may even be that he collects from the best of all of his fields. The reason is that the buyer likely sold his own fields cheap to raise money to buy this expensive field. Therefore, when the seller backs out he has caused damage to the buyer, and a damaged party collects from the best of the damager's possessions.

- The Braisa said, **R' Shimon ben Gamliel** said we teach them not to back out by having the seller write the document.
  - **Q:** It seems that he would only be *koneh* the field if that document is written. However, a Braisa says that **R' Shimon ben Gamliel** says, when a down payment is given for a purchase, the buyer is automatically *koneh* the entire field and the remaining balance becomes a loan!? **A:** The first Braisa is where the seller is adamant about receiving all the money up front. Therefore, the buyer will not be *koneh* for partial payment unless the seller specifically says so. The second Braisa is where the seller seems to have no issue with only receiving a partial payment, and that is why the buyer is automatically *koneh*. In fact, we find that **Rava** makes this exact distinction.
  - **Rava** also said, if someone lent 100 zuz, the borrower may pay back in piecemeal, and all the lender can do is complain (but has no legal remedy) that he is losing money because he spends these small, partial payments.
  - There was a person who bought a donkey and paid for all of it except for one zuz. The seller kept pressing for payment of that one zuz. **R' Ashi** was unsure whether the buyer was *koneh* the donkey in this case or not. **R' Mordechai** said to **R' Ashi**, **Avimi of Hagrunya in the name of Rava** said, one zuz is like many zuz, and therefore the buyer would not be *koneh* (it is no different if the entire outstanding amount is only one zuz). **R' Acha the son of R' Yosef** said to **R' Ashi**, we say in the name of **Rava** that he is *koneh*. **R' Ashi** said to **R' Acha**, your version of **Rava** refers to a case where the seller is selling inferior quality property. In that case we say that he wants to sell it, and he wants the buyer to be *koneh* even if he still owes one zuz. However, if it was not inferior quality, the buyer is not *koneh* even if there is only one zuz outstanding.
  - **Q:** It is obvious that if a seller tries to sell a smaller field worth 100 and he can't find a buyer, so he then sells a larger field worth 200 (this was obviously done with reluctance), and the buyer doesn't pay in full, the buyer is not *koneh*. What if he could have sold for 100, if he would have pushed hard to find a buyer, but instead decided that he rather take the easier route and sell the larger field, and the buyer then does not pay in full, is it considered like he is selling a field of inferior quality that he wants to get rid of (if he didn't want to, he would have pushed for a buyer of the smaller field) and therefore the buyer is *koneh* even for partial payment, or not? **A: TEIKU.**

SACHAR ES HACHAMAR V'ES HAKADAR...

- **Q:** How much may the employer spend to hire replacement workers? **A: R' Nachman** said, up to the amount of their wages.
  - **Q: Rava** asked **R' Nachman**, the Braisa quoted earlier said that the employer may even spend 40 or 50 zuz (which is a lot more than a worker's daily rate)!? **A: R' Nachman** said, the Braisa is talking about where the workers' tools were left by the employer, and he

may therefore sell the tools and use all the proceeds to hire other workers. However, where the tools were not left there, he may only spend as much as their wages.