

21.5.5

64b (משנה ב) → 65b (מה לי הן מה לי דמיהן)

1. כְּשֶׁבִיר שָׁנָה בְּשָׁנָה יְהִיה עִמּוֹ לְאִירְהֵנוּ בְּפֶרֶךְ לְעִינֵיךְ: וְיִקְרָא כְּהֵנָּה:

I רבית במשנה ב

- a *If*: A lends B money, B should not let A live in his courtyard rent-free or at a reduced rent – it is רבית
- b *(version1)*: even though someone who “squats” in another’s yard isn’t liable for rent
 i *Nonetheless*: if he lent the owner money, the lender must pay rent
 ii *Challenge*: this is our explicit משנה
 1 *Justification*: we might have applied our משנה to a yard that is rented and a lender who rents
 2 *But*: if either of those conditions were missing, we might have allowed non-payment – קמ”ל
- c *(version2)*: even though someone who “squats” in another’s yard isn’t liable for rent
 i *Nonetheless*: if a borrower says “lend to me and you can live in my yard” – he must pay rent
- d *Note*: the 1st version certainly would apply to 2nd – but 2nd might only obtain if it was rented as part of the loan
 i *Therefore*: if he had *already* lent the money, lender may be able to live there for free
- e *Related story*: ר' יוסף בר חמא would seize slaves of his debtors and have them work for him
 i *Defense*: he held like ר'נ that an עבד doesn't produce as much as he is fed
 ii *Block* (ר'נ his son): that's only דארי ר'נ, דארי ר'נ's lazy slave
 iii *Defense*: per רב – if someone grabs another's slave and makes him work – פטור
 1 *Reason*: the owner would want his slave to be working and not idle
 2 *Challenge*: that's only if the owner doesn't owe money – else, per ר'נ's ruling (above) – it's רבית 4
 3 *Response*: ר' יוסף בר חמא stopped this practice

II Various rulings of רבא re: רבית

- a *איבי*: if A is collecting רבית and the borrower gives him 5 סאה for the price of 4, when we extract רבית, we only take 4
 i *Reason*: the 5th was just a favor the borrower did for him – not רבית
 ii *רבא*: we extract all 5, since all came to him as רבית
- b *איבי*: if someone is collecting רבית and the borrower gives him a cloak as well, we only extract the money
 i *Reason*: we regard the cloak as a separate sale
 ii *רבא*: we extract the cloak as well; people shouldn't see the lender wearing it and refer to it as גלימא דרביתא
- c *רבא*: if A is coming after B for 12 סלע in רבית and B rents him a yard that normally rents for 10 – but he rents it for 12 (and that “covers” רבית) – when we seize the רבית, we make him pay all 12
 i *Challenge* (ר' אחא מדיפתי): why not allow him to consider as if he rented for 10'
 ii *Answer*: since he knew about it and accepted it at 12, that's the price he's “stuck” with

III משנה ב: we may add on to rental, but not to sale

- a *Example*: if he rents out a house, he may allow for a reduction if the tenant pays all up front
 i *But*: he may not sell a field and allow for “early-bird” discount (if paying before harvest season)
 ii *Defense of distinction* (רבא ור' יוסף): שכירות is only due at end of period (per v1)– hence, he got a discount for paying before it was due and it isn't נטר אגר
 1 *But*: in a sale, the money is due now; the current (“early-bird”) price is the real one and the extra payment is for נטר אגר
 iii ר'נ: permitted to put a “late fee” on paying for the field in the contract
 1 *Challenge*: our משנה
 2 *Defense*: in the case of our משנה, he set a specific amount for paying later; here, he just stipulated a “late fee”
 iv ר'נ: the “late-fee” he charges for beer is permitted
 1 *Reasoning*: the beer isn't going bad, he doesn't need the money – he simply did the buyer a favor (by allowing an early discount)
 2 *Challenge*: from the perspective of the buyer, he's being “fined” for paying on delivery → רבית
 v ר' חמא: his early-bird discount is valid; since the buyer gains by it being in חמא ר'נ's possession in the meantime, as it is exempt from taxes etc. and they have “first crack” at selling (as he was a member of ריש גלותא's household)

IV Practicum: we rule like ר' חמא (this case); like ר'א (רבית קצוצה) and like ר' ינאי (who ruled מה לי הן מה לי דמיהן) – produce need not be there for futures sale to be valid)