

22.3.4; 32a (לחוד סהדא ולתרתני שני ולפירי) → 34a (עמוד [bottom of] ההוא דאמר)

- I Case #6 (מבית מדרשו של רבה): A was on land, B claimed it was his; A had a שטר מכר to prove it which B claimed was forged
- a Then: מחזיק whispered to רבה that his שטר was "forged", but he had a legitimate one that was lost
- i Note: most ראשונים understand that it wasn't forged, rather a שטר אמנה which may not be used for collection
- b Ruling: רבה gave the מחזיק credibility based on a מה לי לשקר – if he wanted to lie, he could've been silent
- i Challenge (ר' יוסף): the שטר is worthless (based on A's admission) and cannot be the basis of a מה לי לשקר
- c Case #6a: A claimed B owed him money and A had a שטר מכר to prove it which B claimed was forged
- i Then: טוען whispered to רבה that his שטר was "forged", but he had a legitimate one that was lost
- ii Ruling: רבה gave the מחזיק credibility based on a מה לי לשקר – if he wanted to lie, he could've been silent
- 1 Challenge (ר' יוסף): the שטר is worthless (based on A's admission) and cannot be the basis of a מה לי לשקר
- d Ruling (ר' אידי בר אבין):
- i מחזיק follows רבה, land remains where it is (under קרקע)
- ii לווי follows ר' יוסף, money remains where it is (with זוזי)
- e Case #6b: ערב came to לווי and claimed to have paid off his loan and he held the שטר; לווי responded that he had already paid the ערב and the ערב admitted to that but claimed that he had taken the money back
- i Question: ר' אידי בר אבין asked ר' אבבי how to rule?
- 1 Response: ר' אידי had already ruled like ר' יוסף in case of זוזי (→ לווי should not have to pay ערב back)
- 2 Caveat: only true if the ערב admitted that the לווי took the money back (cancelling of שעבוד of שטר)
- (a) But: if ערב claimed that he returned לווי's payment due to the deficiency of the coins, שעבוד still valid
- II Case #7: רבא בר שירושם was accused of expending property of יתומים; ר' אבבי asked him for the details:
- a Details: רב"ש had land as security against debt of their father, and there was another outstanding debt;
- i When: the security was completed, רב"ש figured that if he returns land, he won't be able to recover other debt without a שבועה, as per ruling – ...הבא ליפרע מנכסי יתומים...; he "buried" the שטר משכנתא and consume amount of 2<sup>nd</sup> debt, since he'd be believed about 2<sup>nd</sup> debt as a מינו that he could have claimed that the land was his
- 1 Response (ר' אבבי): no מינו, since he wouldn't be believed that the land is his (there is a קול that it belongs to יתמי)
- 2 Rather: he must return it, wait for them to reach majority and then go to court for 2<sup>nd</sup> loan
- III Case #8: ר' אידי בר אבין's relative died (childless), leaving a date tree; there was another relative (X) who was more aggressive and he seized it; each claiming to be the closer relative and the proper יורש.
- a After: 2 years, X admitted ר' אידי was closer, ר' חסדא gave it to ר' אידי; he demanded recovery of the 2 years' worth of פירות
- i Response (ר' חסדא): refused, since his only recourse to getting the tree at all was based on the other's admission
- 1 Dissent: רבא and ר' אבבי disagree and would grant all the פירות to ר' אידי – once the other admitted, recorded as such
- 2 Related dispute: 2 claim ancestral land; A bring witnesses to that effect and B brings witnesses to שני חזקה
- (a) ר' חסדא: B has מינו; he could've claimed he bought it
- (b) ר' אבבי: מינו is ineffective against עדים
- IV Case #9 (מבית מדרשו של ר' ינאי): A was on land, B claimed it was his; A had witnesses to 2 years of חזקה
- a Ruling (ר' ינאי): the land and פירות are returned to B
- i Caveat (ר' זביד): if A claimed he had come on to the land for פירות, he's believed
- 1 As per: רב יהודה - if someone enters a field with tools for harvesting and claims that he bought harvesting rights from land owner, he is believed – no one is brazen enough to lie about that; same in our case
- (a) Challenge: if so, same should be said about land
- (b) Rejection: in that case, we demand he show us his שטר (no שטר written for פירות)
- V Case #10 (מבית מדרשו של ר' אבבי): A was on land, B claimed it was his; A had 1 witness to חזקה
- a Students: suggested that it parallels ruling of ר' אבא
- i Case 10a: P grabbed Q's piece of silver, when brought to ר' אבא, Q brought 1 witness that P had grabbed it
- 1 Response: P admitted to grabbing it but claimed it was his that he was recovering
- 2 Ruling:
- (a) Cannot: make P pay, as there aren't 2 witnesses
- (b) Cannot: exempt P, as there is 1 witness
- (c) Cannot: make P take a שבועה to exempt himself, as by his own admission he is a גולן and is פסול לשבועה
- (d) Ruling: since he cannot take a שבועה, his opposite number takes an oath and collects
- b Rejection (ר' אבבי): cases aren't analogous:
- i In ר' אבא's case: 1 witness hurts P's case, another witness would extract money
- ii In our case: 1 witness bolsters מחזיק's claim, another witness would seal it
- 1 However: the analogy would work in case of 1 witness of 2 years – for פירות\*