



Futures

The fifth *perek* of *Bava Metzia* deals with the prohibition of charging interest - *ribbit*. The *Mishnayot* also deal with the rabbinic extensions of the prohibition where *ribbit* may arise in the context of a business deal rather than a direct loan. One such case is futures. The *Mishnah* (5:7) explains that one is not allowed to pay another to supply them with a quantity of produce at a future date. The concern is that if the price of the produce increases, then the supplier will be providing that produce of a value greater than the sum of money he was given at the outset. The outcome has the appearance of interest. The *Mishnah* however explains that if the going price for that produce has been released, then the arrangement is permitted. The *Mishnah* explains that the reason it is permitted is that "even though he might not have the produce, another supplier would". How do we understand the *Mishnah*?

The *Gemara* (63b) cites *Raba* and *Rav Yosef* that explain that the purchaser can argue that he gained no benefit from the supplier despite the subsequent price increase. He could argue that had he not given the supplier the money, he could have purchased the produce himself from the outset. The *Nimukei Yosef* appears to understand the *Mishnah* according to the rationale of *Raba* and *Rav Yosef* as he explains that the purchaser could have bought the produce from someone else, stored it and benefitted from the price increase.

The *Tosfot Yom Tov* however cites the *Tosfot* (62b) who explain the *Mishnah* differently. They understand that *Mishnah* is referring to the supplier and not the purchase. That is even if the supplier does not have the stock at the time of the deal, the supplier could have sourced it from someone else. It is therefore considered as if the supplier had the produce in stock at the time of the agreement. With that rationale in mind, the issue of *ribbit* is avoided since the agreement is a straightforward business transaction. The *Tosfot* continue, that even though the purchaser did not acquire the produce through *meshicha* (drawing the produce towards them) the issue of *ribbit* would still be avoided. This is because the supplier would not be able to retract due to the *mi shepara* (curse incurred by one that retracts after the

money has been paid). Consequently, the *Tosfot* explain that it is considered as if the produce is already owned by the purchaser and any increase is considered as if it occurred while in his possession. The *Tosfot Yom Tov* stresses that the issue of *ribbit* can only be avoided if the produce is already considered as if it is in the possession of the purchaser from the outset.

Ostensibly the above rationale should apply beyond the laws of *ribbit* as well. Note that the *Tosfot* understand that if the supplier wanted to retract then a *mi shepara* would apply. Indeed, the *Rambam* (*Mechira* 22:3) also rules that if someone retracts in such a business arrangement that was made after the prices were public, he would receive a *mi shepara*. The *Maggid Mishnah* explains that the *Rambam* is based on our *Mishnayot*.

The *Kesef Mishnah* does not disagree with the *Rambam's* ruling. Nevertheless, he argues that the laws in our *perek* apply to laws of *ribbit* only and no conclusions can be drawn to laws of acquisitions. (The *Kesef Mishnah* finds the basis for the *Rambam's* ruling elsewhere.) Why so?

The *Tosfot Yom Tov* explains that the *Kesef Mishnah's* logic is in line with the *Raavad's*. One must recall that *ribbit* through a business transaction is prohibited rabbinically. The *Chachamim* permit the arrangement under these conditions not because if the prices have been released that the acquisition is considered complete, but simply because the *Chachamim* can build leniencies into the laws that they introduced. Consequently, since this ruling may be a result of a leniency no conclusion should be drawn to the laws of acquisitions in general.

The *Tosfot Yom Tov* however notes that since both the *Tosfot* and *Rashi* bring the *mi shepara* as a basis for permitting this arrangement, it suggests that the laws – *ribbit* and acquisition – are connected. Consequently, he argues that the *Kesef Mishnah* should not have been so quick to reject the *Maggid Mishnah's* explanation of the *Rambam*.

Revision Questions

בבא מציעא ה' ג' - ה' ה'

- What can be problematic about giving a down payment on a property where the full purchase is conditional on completing the payment? (ה' ג')
- Who lent money using a field as collateral and why did the *Chachamim* permit it? (ה' ג')
- Why is it problematic to give a product to a merchant to sell agreeing that they will split the profit if sold above its value or split the losses? (ה' ד')
- How can this problem be avoided? (ה' ד')
- For which items does the problem discussed in the previous question not apply? (ה' ה')
- Based on the previous three question, what innovation does *R' Shimon ben Gamliel* believe can be employed to avoid this problem? (ה' ה')
- What does the *Mishnah* mean when it says “*mafriz al sadehu*” and is it permitted? (ה' ה')
- What is the nature of a deal where one party gives another “iron sheep” and why is it prohibited? (ה' ו')
- From whom can one charge interest? (ה' ו')
- Can a person purchase produce from another to be collected at a later date:
 - At an agreed price if the price of the produce has not been released?
 - At the current price of the produce? (ה' ו')
- What is the exception to the first case in the previous question? (ה' ו')
- What is different about purchasing manure? (ה' ו')
- Can one stipulate in a permissible purchase where he will collect the product later, that if the price drops he will pay the lower price? (ה' ו')
- What does *R' Yehuda* maintain regarding one who does not make this stipulation and the price falls? (ה' ו')
- To whom can one lend *chittin be'chittin* and why? (ה' ח')
- Why is it ordinarily prohibited? (ה' ט')
- What is the other general exception? (ה' ט')
- When is it problematic to say to a friend “help me with my work and I will help you with yours”? (List two cases) (ה' י')
- According to *Rabban Gamliel* can one send a thank you present to someone who lent them money? (ה' י')
- According to *R' Yehuda* how can words amount to interest? (ה' י')
- Which parties to a loan with interest have transgressed a biblical prohibition? (ה' י"א)
- For what type of work is one who was commissioned to do work and changes his mind, responsible to finance a replacement? (ה' י"א)
- What is the rule regarding changing the conditions of a workplace agreement? (ה' י"ב)
- If a rented animal dies is the person who rented it responsible and what is the exception? (ה' י"ג)
- In what case is the renter of an ox and plough obligated to pay if the plough broke? (ה' י"ד)
- When is the renter obligated to pay if the ox slipped while involved in threshing legumes? (ה' י"ד)
- If someone rented an animal to transport a product of a particular weight, can he use the animal to transport a different product of the same weight? (ה' י"ה)

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Efrat, Israel
Shiur in English

Sunday -Thursday
Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

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Yisrael Bankier
mishnahyomit.com/shiurim

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
In US dial: 718 906 6400
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
20 January י"ד שבט	21 January ט"ו שבט	22 January ט"ז שבט	23 January י"ח שבט	24 January י"ח שבט	25 January י"ט שבט	26 January כ' שבט
Bava Metzia 6:6-7	Bava Metzia 6:8-7:1	Bava Metzia 7:2-3	Bava Metzia 7:4-5	Bava Metzia 7:6-7	Bava Metzia 7:8-9	Bava Metzia 7:10-11

