

## What is the ruling if it is rolling

## מתגלגל מהו –

### OVERVIEW

posed a query; what is the ruling in a case where the bundle of grain was in the רה"י and it was rolling from the רה"י to the רה"ר. There is a dispute between רש"י and תוספות how to define the case in question and what are the two sides of the query.

פירש הקונטרס<sup>1</sup> דמספקא ליה אי בתר אכילה אזלינן ואי בתר לקיחה -  
explained that the doubt of ר"ז was whether we follow the eating of the grain (which took place in the רה"ר) and he is פטור (for שן is חייב only in רשות הניזק), or whether we follow the initial taking of the grain (which was in the רה"י) and he is חייב.

רש"י disagrees with תוספות:

וקשה דלקמן (דף כא,ב) גבי כלב שנטל חררה והלך לגדיש -  
And there is a difficulty with רש"י's explanation; for later there is a משנה regarding a dog who took a biscuit and went to a pile of grain -  
פשיטא לן<sup>2</sup> דאי אכליה בגדיש דעלמא דפטור -

Where the גמרא is certain that if the dog ate the חררה in someone else's גדיש (not in the גדיש of the חררה) that he is exempt from paying for the חררה since he did not eat it ברשות הניזק (but elsewhere), even though the dog took the חררה from the רשות הניזק. Similarly here, even though the בהמה took the עמיר from the רשות הניזק, however since it did not eat it ברשות הניזק (but rather in the רה"ר), he should be פטור!

פרש"י has an additional difficulty with תוספות:

ועוד דלשון מתגלגל לא משמע הכי<sup>3</sup> -  
And there is an additional difficulty, for the expression 'מתגלגל', does not indicate that the בהמה was rolling the עמיר, but rather that it was rolling on its own.

תוספות offers his interpretation:

ונראה לרבינו יצחק כגון דקיימי פירות ברשות הניזק ומגלגלי<sup>4</sup> ואתו לרשות הרבים -

<sup>1</sup> בד"ה מאי. It is apparent that רש"י interprets the בעיא דר"ז, where the בהמה rolled the grain from the רה"י to the רה"ר and ate it in the רה"ר.

<sup>2</sup> See כגא. The משנה ruled that he is חייב a נ"ש for eating the חררה in the גדיש.

<sup>3</sup> If we are discussing where the בהמה rolled it, a more appropriate term would be מגלגל, but not מתגלגל (which indicates that it is rolling, but not that it is being rolled), and especially not וקא מתגלגל ואתי.

<sup>4</sup> Someone placed the פירות on a slope in the רה"י, and they were rolling down the slope towards the רה"ר.

**And it is the view of the ר"י that the query was in a case where for instance the fruits were in the רשות הניזק, and they were rolling (on their own, not by the רה"ר in such a manner -**

**דאי לא שהבהמה מעכבתן בפיה ואכלתן שם היה סופן להניח ברשות הרבים -**

**That if the בהמה would not restrain them with her mouth and eat them there (in the רשות הניזק), they would have ended up resting in the רה"ר -**

**וקמבעיא ליה אי חשיבי כמונחים ברשות הרבים<sup>5</sup> או לאו -**

**So s'z' query was whether it is considered as if the פירות were lying in the רה"ר (and he is פטור), or not (and he is חייב since factually the בהמה [stopped those פירות from going into the רה"ר and] ate the הניזק).**

continues with the explanation of the גמרא's attempt to resolve this query:

**וקאמר תא שמע משוי מקצתו בפנים כולי<sup>6</sup> מאי לאו במתגלגל<sup>7</sup> -**

**And the גמרא said, 'come and hear; the ברייתא states, a load that was partially inside, etc.'; the גמרא assumes 'is not this ברייתא discussing a case of מתגלגל'. - מתגלגל<sup>8</sup> explains why the גמרא assumes that the ברייתא is discussing תוספות**

**דאורחיה דמילתא כך היא במקצתו מבפנים ומקצתו מבחוץ<sup>9</sup> -**

**For that is the usual manner; if something is partially inside and partially outside, it must be rolling (from inside to outside). The גמרא continues with its resolution -**

**וקתני אכלה בפנים חייבת אף על פי שסופו להתגלגל בחוץ אם לא שאכלתן -**

**And the ברייתא stated, 'if the animal ate inside she is חייבת', even though that eventually it would have rolled outside, if the animal would not have eaten it. This proves that (מרה"י לרה"ר) חייב. This concludes the גמרא's attempted proof.**

makes a (side) comment:

<sup>5</sup> We should perhaps consider it as if the בהמה took the פירות from the רה"ר (where they were destined to rest) and ate them in the רשות הניזק, in which case he would (still) be פטור, for we require that the taking and the eating must both be בחצר הניזק (for בשדה אחר ובער יבעיר וגו' indicates that everything, the taking and eating, took place אחר [see בתוס' ד"ה ותפשוט]). See ר"פ כג,א ד"ה ותפשוט for a possible explanation why it can be considered as if it was taken אחר.

<sup>6</sup> The rule is if the animal ate it inside he is חייב, if it ate it outside he is פטור.

<sup>7</sup> Otherwise, if it is simply as the ברייתא states, it is obvious that שן is חייב only ברשות הניזק and not ברה"ר. See 'Thinking it over' # 1.

<sup>8</sup> According to רש"י that מתגלגל means that the בהמה rolled it from the רה"י to the רה"ר, we can understand that the ברייתא which states a load that was initially partially inside, etc. and if אכלה בחוץ חייבת, means that the animal took it from the inside to the outside (proving that we follow the אכילה, but not the לקיחה). However according to תוספות that מתגלגל means on its own, why should we assume that the ברייתא is discussing a case where it rolled on its own? תוספות responds.

<sup>9</sup> According to רש"י, however, if the בהמה rolled it, why mention that it was partially inside and partially outside, it should have merely stated that it was inside and the בהמה rolled it from the inside to the outside.

ואכלה בחוץ פטורה<sup>10</sup> תנא אגב רישא דמילתא דפשיטא היא -

And the ברייתא taught **only on account of the רישא**,<sup>11</sup> for it is **obvious** that אכלה בחוץ פטורה. There is no need to teach us the סיפא.

continues with the s'gmara's rejection of the proof:

אימא על מה שבפנים חייבת -

'I will say she is חייבת for eating what is inside' -

פירוש על מה שראוי להיות בפנים שאין סופו להתגלגל בחוץ חייבת<sup>12</sup> -

Meaning she is חייבת for eating the food that belongs inside, which will not eventually roll outside. However, for food which could have rolled outside if not for the cow eating it, he may be פטור. There is no proof from the ברייתא.

explains the second rejection of the גמרא:

ואיבעית אימא בפתילה דאספסתא שעליו ארוכים<sup>13</sup> -

'And if I want I can say, the ברייתא is discussing 'wicks' of אספסתא, whose leaves are long -

וסלקא דעתין אמינא ניזול בתר רוב עלה<sup>14</sup> שבפנים או בחוץ:

And I would have thought that we should follow the majority of the leaf, whether the majority is inside or outside. The ברייתא teaches that we do not follow the majority, but rather for whatever he ate inside he is חייב, for whatever he ate outside he is פטור.

## SUMMARY

explains מתגלגל that the בהמה rolled the food from the רה"י to the רה"ר and the query is whether we follow the taking (in the רה"י) and he is חייב or we follow the eating (in the רה"ר) and he is פטור.

argues that if the eating is in the רה"ר he is always פטור.

<sup>10</sup> This may be where it was rolling from the רה"ר to the רה"י and he ate it in the רה"ר. It is obvious that he is פטור (even though it was rolling towards the רה"י) since he actually ate it in the רה"ר (see תוס' ר"פ). See (however) בל"י (תוס' ר"פ). See (however) אות עב.

<sup>11</sup> However, according to רש"י, the entire proof is from בחוץ; even though he took it from the inside, nevertheless since he ate it outside, he is פטור because we follow the אכילה but not the לקיחה.

<sup>12</sup> See 'Thinking it over' # 2.

<sup>13</sup> The ברייתא (according to the אב"ע) is not discussing a case of מתגלגל at all (see תוס' ר"פ); therefore we cannot bring any proof from this ברייתא to the query of ר"ז. The novelty of this ברייתא (see footnote # 7) is as תוספות continues to explain. See footnote # 14.

<sup>14</sup> We may have thought that if the majority of the leaf is in the רה"י he is liable even for the portion of the leaf which was ברה"ר, and the same in the reverse if the majority of the leaf was in the רה"ר, he is פטור even for the portion that was in the רה"י. [We must say, however, that in either case the בהמה ate it in the רה"י, for otherwise what is the חידוש of אכלה בחוץ פטורה (see נח"מ).]

explains תוספות that it rolled on its own (down a slope) and the בהמה stopped its progress and ate it in the רה"י. The query is whether we follow its destination (in the רה"ר) and he is פטור. Or we follow the place where he stopped and ate it (in the רה"י) and he is חייב.

### **THINKING IT OVER**

1. The גמרא writes מאי לאו במתגלגל. According to תוספות is the reason we assume that we are discussing מתגלגל because that is the מילתא<sup>15</sup>, or because otherwise<sup>16</sup> there is no חידוש in the ברייתא?<sup>17</sup>

2. תוספות explains the first answer of the גמרא to mean that he is חייב for that which is מילתא<sup>18</sup>. אין סופה להתגלגל לחוץ since it is ראוי להיות בפנים בפנים<sup>19</sup>. Seemingly this is a דפשיטא, what is the ברייתא teaching us?!

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<sup>15</sup> If מתגלגל forces us to say that it is מתגלגל, then by אספסתא it should also be discussing מתגלגל (see footnote # 13). How is the proof rejected?

<sup>16</sup> See footnote # 7.

<sup>17</sup> See # 42. אוצר מפרשי התלמוד.

<sup>18</sup> See footnote # 12.

<sup>19</sup> See בית לחם יהודה אות עג and מהודורא בתרא למהרש"א.