

**And he did not borrow until תשרי**

**ולא לזה עד תשרי –**

### **OVERVIEW**

The גמרא explained that the משנה which states that we do not return a שטר חוב is discussing a case (even) where the לזה admits that he owes the money. The reason we do not return the שטר is because there is a concern that the date on the שטר (when the שטר was written) is before the time when the actual loan took place, and therefore the לקוחות who bought property from the לזה between the date the שטר was written (in ניסן) and the date of the loan (in תשרי), may lose their property unfairly. תוספות explains what precisely is the concern and why.

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פירוש ועתה רוצה ללות בו<sup>1</sup> שיש לו טורח לכתוב שטר אחר<sup>2</sup> –

**The explanation of תשרי עד תשרי ולא לזה is that now the לזה wants to borrow with this שטר, for it is troublesome to write another שטר -**

**וגם כדי להרוויח פשיטי דספרא<sup>3</sup> –**

**And also another reason why the לזה wants to borrow with this lost שטר is in order to gain the coins that the לזה would pay the scribe to write a new שטר.<sup>4</sup>**

תוספות negates the seemingly more obvious explanation:

**אבל אין לפרש שכבר לזה בו קודם שנפל –**

**However, we cannot explain that תשרי עד תשרי ולא לזה means that he already borrowed with this שטר this past תשרי before it was lost –**

**דאם כן מאי משני<sup>5</sup> הני ריעי<sup>6</sup> לפי שנפל ויש הוכחה דמשום פסולו לא נזהר לשומרו –**

**For if indeed this is what תשרי עד תשרי ולא לזה means; what does the גמרא answer that these שטרות are defective, since they were lost, and therefore there is evidence that the מלוה was not careful to guard them since they are invalid; this is the explanation why we are concerned by a lost שטר. But this explanation is not logical -**

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<sup>1</sup> The לזה wrote the שטר in ניסן assuming he would receive the loan that day. The loan did not materialize. The שטר could have been either by the לזה or the מלוה (whom the לזה trusted with the שטר) when it was lost.

<sup>2</sup> One has to go to the סופר and give all the information and find two כשר witnesses; all this is a טרחה.

<sup>3</sup> The לזה is the one who pays for the סופר; he needs the loan.

<sup>4</sup> We therefore do not return this שטר to the מלוה because he may collect from the כדין שלא.

<sup>5</sup> The גמרא asked regarding this concern of תשרי עד תשרי ולא לזה בניסן, that seemingly by every שטר we should have the same concern, and not collect with any שטר from the לקוחות.

<sup>6</sup> The fact that the מלוה lost the שטר indicates that it is defective; otherwise a מלוה would watch his שטר carefully. We assume the defect may be that תשרי עד תשרי ולא לזה בניסן כתב. However שטרות that were not lost are deemed to be proper and there is no reason for concern.

והא ליה בו כבר ופשיטא שנוהר לשומרו:<sup>7</sup>

For he already borrowed with this שטר and it is obvious that the מלוה is careful to guard it!<sup>8</sup>

### SUMMARY

ולא means that he [still] did not borrow the borrow until now.

### THINKING IT OVER

According to תוספות interpretation why does the גמרא say ולא ליה עד תשרי (indicating that the loan took place already), when instead it should have merely said ולא ליה or ולא ילוה עד תשרי, etc.?<sup>9</sup>

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<sup>7</sup> See 'Thinking it over' on זב,ב ד"ה בזמן and תוס' ז,ב ד"ה here.

<sup>8</sup> Granted that it was ולא ליה עד תשרי, but if the מלוה borrowed the money, the מלוה will be as careful with this שטר as with any other שטר, for he relies on this שטר to collect his debt. There is no difference between this שטר and any other שטר. However according to תוספות it is understood why they (the ליה or the מלוה) did not watch it; for they both knew that it was worthless, since there was no loan as of yet.

<sup>9</sup> See תו"ה (לר' אברהם חיים שור).