

This is for the body

הא לגופא –

OVERVIEW

The **ברייטא** rules that if a Jew borrowed money from a **נכרי** and put up his slave as collateral, the slave goes free.¹ The **גמרא** found a contradictory **ברייטא** which states that if a **נכרי** put up his field as collateral for a loan he took from a Jew, that field is **מעשר פטור**.² The **גמרא** answered that both cases are where the loan was not yet due, and the reason for the difference is because one is for the **גוף** (the body) and the other is for the **פירות**. There is a dispute between **רש"י** and **תוספות** as how to explain this answer.

פירש בקונטרס³ **גבי עבד קבע לו זמן שאם לא יפדהו יהא גופו חלוט לעובד כוכבים** - **רש"י** explained that regarding the **עבד**, the case was that the **ישראל** set a time limit that if the **ישראל** will not redeem the **עבד** (meaning pay up the loan) by this date, the body of the slave will belong completely to the **נכרי**, moreover -

ומעכשיו משתעבד בו וכיון דמזלזל בתקנתא דרבנן **קנסוה אף על גב דלא מטא זימניה** - **And starting from now** (when he is receiving the loan) the **נכרי** can enslave the **עבד** (the **עבד** begins working for the **נכרי** immediately even before the due date of the loan), so since he was denigrating the enactment of the **רבנן**, they fined him that the **עבד** goes free now, even though the due date has not arrived yet -

וגבי שדה איירי דקבע ליה זמן לפירי -

However by a field we are discussing a case where the **ישראל** set a time limit for the loan regarding the fruits of the field only, meaning -

שאם לא יפדהו עד הזמן יאכל הפירות משם ואילך עד שיפרע -

That if the נכרי will not redeem (pay) the loan by the designated time the ישראל will eat the fruits from the designated time onwards until the loan will be paid -

הלכך אפילו מטא זימניה אין לו אלא פירות -

Therefore since even if the due date arrived the ישראל merely has only the פירות, so therefore before the due date it is obvious that this field still belongs to the **נכרי** and is therefore **פטור** from **מעשרות**.

¹ It is considered as if he sold the **עבד** to the **נכרי**, since if he does not pay him, the **נכרי** will keep the **עבד** for the loan.

² It is still considered the field of the **נכרי** and it is not considered as if the field was sold to the **ישראל**, even though it was put up as collateral, and may eventually wind up as the field of the **ישראל**.

³ בד"ה הא.

⁴ The **תקנת חכמים** is that a **ישראל** should not sell his slave to a **נכרי** (since an **עבד** is **במצות כאשה** and he will not be able to fulfill them by the **נכרי**). This **ישראל** was **מזלזל** by offering his slave as collateral so it is possible that the **נכרי** will own him (the same as selling) and additionally he is allowing the **נכרי** to enslave him even before the loan is due.

In summation; The terms of the collateral by the עבד is that he starts to work immediately for the נכרי and if the loan is not paid by the due date the גוף of the עבד belongs to the נכרי (therefore even before the due date the חכמים fined him that the עבד goes free as if he sold him). By the field the deal was that if the נכרי does not pay by the due date, the ישראל may eat the פירות until his loan is paid up; therefore if it is מטי זימני the field is פטור from מעשר.

פרש"י asks on תוספות:

וְתִימָה כִּיּוֹן דַּעַד דְּלֹא מֵטָא זִימְנִיָּה אֵין לוֹ פִּירוֹת מַה שִּׁיַּךְ לוֹמַר פְּטוֹר מִן הַמַּעֲשֵׁר⁵ -

And it is astounding! Since that until the due date the ישראל has no פירות, what does it even mean to say that it is exempt from מעשר?!

An additional question on פרש"י:

וְעוֹד דְּהוּא לִיה לְמִימַר אִידִי וְאִידִי בֵּין מֵטָא זִמְנִיָּה בֵּין לֹא מֵטָא זִמְנִיָּה⁶ -

And furthermore the גמרא should have said that both cases (עבד and שדה) apply whether the due date arrived or not -

וּמִדִּנְקֻט לֹא מֵטָא זִמְנִיָּה מִשְׁמַע דְּלֹא מִתּוֹקְמָא הֵיאָא דְּמַעֲשֵׁר אֵלֹא בְּלֹא מֵטָא זִמְנִיָּה -

However since the גמרא mentioned זמניה, this indicates that the ברייתא of רש"י cannot be established only by זמניה; not like רש"י.

תוספות offers his explanation:

וְנִרְאָה לְפָרֶשׁ הָא לְגֹפָא הָא לְפִירָא כְּמוֹ הָא גֹּפָא וְהָא פִירָא⁷ -

And it appears to תוספות that the explanation of לפירא הא לגופא הא means the same as if it were written והא פירא -

דַּגְבִּי עֶבֶד אֵף עַל גַּב דְּלֹא מֵטָא זִמְנִיָּה הַגּוֹף בְּבֵית הָעוֹבֵד כּוֹכְבִּים⁸ וּמִפְקִיעוֹ מִן הַמִּצּוֹת -

That by an עבד, even though it was זמניה, nevertheless his גוף is in the house of the נכרי and it prevents him from observing the מצות (this is the meaning of גופא – his body is by the נכרי)

וּמִשּׁוּם הַכִּי יוֹצֵא לְחִירוֹת⁹ -

And therefore he goes out free -

⁵ Before the due date the פירות belong to the נכרי not to the ישראל, so what does it mean that it is פטור from מעשר; obviously the נכרי is not giving מעשר and the ישראל does not have the פירות!

⁶ If the עבד is freed even before זמניה (where he is merely working for the נכרי), he is certainly freed when מֵטָא זִמְנִיָּה (even if the deal was that he did not work for the נכרי before) since by מֵטָא זִמְנִיָּה the נכרי owns the עבד. Similarly by the field he will be פטור from מעשר even if מֵטָא זִמְנִיָּה since the ישראל does not own the field; he only owns the פירות.

⁷ indicate more like פרש"י that the collateral was either for the גוף (by an עבד) or just for the פירות (by the שדה); however תוספות interprets ולפירא as if it were written גופא and פירא (without the introductory ד"ל), as תוספות continues to explain.

⁸ תוספות agrees with פרש"י that the עבד begins work right away.

⁹ He is violating the intent of the חכמים not to sell an עבד to a נכרי because he is מפקיע מן המצות, here too he is (temporarily) being מפקיע the מצות. See 'Thinking it over'.

אבל בשדה¹⁰ אין לו לישראל אלא פירות¹¹ והשדה ברשות העובד כוכבים ופטור:

However by a field the ישראל only has the פירות, but the field is in the possession of the נכרי, therefore he is פטור from מעשר.

SUMMARY

According to רש"י the term לגופא means that the עבד can eventually wind up by the נכרי completely and in the meantime he works for him, while לפירות means that eventually the ישראל will only have פירות, but currently he receives nothing. תוספות maintains that in both cases he receives the פירות now but the גוף of the עבד is by the נכרי, while the גוף of the שדה is still by the נכרי.

THINKING IT OVER

According to תוספות is the reason the עבד goes free now (before זמניה), because he is working for the נכרי now,¹² or because eventually the נכרי may own him completely, or a combination of the two?¹³

¹⁰ תוספות disagrees with רש"י regarding the שדה, for the ישראל receives the פירות immediately. According to תוספות the cases of עבד and שדה are the same; the lender gets the פירות immediately (both by עבד [he works for the נכרי] and by שדה [the ישראל eats the פירות]). The difference is that by עבד the גוף is physically by the נכרי so it is considered a מכירה but by the שדה the גוף השדה is by the נכרי.

¹¹ However when it is מטא זמניה the field is transferred to the ישראל (to service the debt); in that case he is מחויב. According to תוספות the case of שדה is only if מטא זמניה.

¹² See footnote # 9.

¹³ See נחלת משה.