

פְּטוּר - if you admit to a fine, you're פְּטוּר.

Rambam said that this only applies if your admission makes you pay nothing

עֵדִים come after this, which is a מחלוקת.

Tosafot: because the gemara first said to identify the thief then maybe admit, if you admit to a fine and witnesses come, you're פְּטוּר.

The case of Rabi Meir in Kedushin (different from the other Rabi Meir tree case): If you give a woman a ring to marry her but she's not Jewish *yet*, and she converts, according to Rabi Meir you are married, according to the Tanna Kamma you are not, because of אין אדם מקנא דבר שלא בא לעולם.

In another, similar case, you promised someone the fruit of a tree that hasn't bloomed yet. Rabi Meir would say that you *can* do that, and the Tanna Kamma would say that you can't.

Unrelated Tosafot: The simple reading of the gemara is that if you paid for the animal but didn't do משיכה yet. The payment alone is not legally binding.

מִוֹדָה בְּקֶנֶס פְּטוּר, remember, is when you admit that you did the thing wrong, so you don't have to pay. Rambam clarifies that this concept only talks about כֹּפֶל, the 2x fine. You still have to pay for the damages.

If witnesses come and testify against you before you admit that you did the thing wrong, you are חייב. Even if you confess. But if the witnesses come after you confess, there is a מחלוקת. Some say that you are פְּטוּר because you already admitted, and some say that you are חייב because the witnesses were going to testify against you, making you חייב.

The gemara had 3 questions about 'how can you promise כֹּפֶל?', "How do you know it'll be stolen? How do you know he'll be found? If these 2 things happen, how do you know he'll pay כֹּפֶל?" (Defaults are it probably won't be stolen, the thief probably won't be found, and if the thief does steal and is found, he'll probably admit to stealing so he doesn't pay כֹּפֶל.)

Tosafot says about this: In order for the thief to be found there had to have been עדים. Because there had to have been עדים, when the Gemara implies that if the עדים come after he admits he's פטור, therefore the Gemara is taking the side of the מחלוקת that even if עדים come after admission then you're פטור.

Let us return to the case of Dylan who paid for the animal and how he retroactively owns it. When Rochel Leah asked Dylan to watch the sheep, as a precautionary measure, Dylan *almost* legally bought the sheep. He did משיכה and paid her for it, but Rochel Leah said, "it's only yours if it gets stolen. If it doesn't, I'll give the money back and it is still my sheep."

If the sheep has kids and Dylan shears it before it gets stolen, when the sheep gets stolen, Dylan retroactively owns the sheep. Now the robber gets found with the sheep and the kids and the fur, because Dylan retroactively owned it, who gets the fur and the kids?

A ברייתא says that the original owner gets the kids and fur, because Rochel Leah only gave Dylan the rights for כפל and not outside sources of wealth like fur and kids. Also because Dylan's ownership only applied the moment the robber stole the sheep, not the entire time he watched it.

There are 2 מינה נפקא:

The first one is just a difference in how the ברייתא justifies its answer (whether it says the thing about כפל or if it says the amount of time).

The second one is: If Dylan and Rochel Leah do the deal in a swamp (anywhere that is not Dylan's property), Dylan by definition can't do משיכה and can't get the כפל. But if Dylan is on his property (his swamp), meaning he can do משיכה and take ownership, then he can get the כפל.

Next let's talk about כתובה's.

What if in the deal, Rochel Leah says that Dylan has ½ rights of ownership when Dylan watches it, but then if it gets stolen, Dylan has full ownership?

Tosafot brings a proof from קדושין: If a guy goes to a girl and gives her a ring, but says "the marriage will only complete in 30 days", meaning you're like ½ married for those 30 days. If another guy comes along and says a similar thing but only completes in 20 days, and a third guy comes along and asks for 10, all of the marriages don't count because the deals were not binding enough to block the other people from asking. This is called "backending". If you do this with a sheep,

Dylan doesn't get any additional rights after 30 days so because it was stolen within 30 days he doesn't get anything.

Tosafot continues, maybe I had it all wrong and it is front ended, meaning Dylan gets the wool and kids. Meaning the Gemara can't have believed it was front ended.

		Front-ended	Back-ended
		Rochel Leah did give Dylan ½ ownership	
In Swamp	Dylan gets Nothing	Dylan gets everything	Dylan gets כפל
Not in Swamp	Dylan gets כפל		

Rejected in Step 3

		Front-ended	Back-ended
		Rochel Leah did give Dylan ½ ownership	
In Swamp	Dylan gets Nothing	Dylan gets everything	Dylan gets כפל
Not in Swamp	Dylan gets כפל		

Rejected in Step 2

Original Gemara case

Tosafot:

Step 1: Maybe it's a half/half situation because that would solve the swamp issue!

Step 2: Well, it can't be a back-ended half/half case because then that would solve the issue. So it has to be front ended!

Step 3: If it has to be front ended, the whole half/half situation doesn't work because then Dylan would get the kids and that's not true.