

CHAPTER III

Bava Metziah 33b – 34a

GEMARA 33b

Rami bar Hama objected: But one cannot transfer that which is non-existent! And even according to R. Meir, who maintained, One can transfer that which is non-existent, — that is only in the case of, e.g. the fruit of a palm tree, which will naturally come [into existence]. But here,

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who can say that it [the bailment] will be stolen? And should you assume that it will be stolen, who can say that the thief will be found? And even if the thief be found, who can say that he will repay [double]: perhaps he will confess [before his guilt is attested]. and thus be exempt? — Said Raba: It becomes as though he [the bailor] had said to him, 'If it be stolen, and you are willing to pay me [for it], then my cow be yours from this moment [of delivery] If so, even its shearings and offsprings too [should belong to the bailee] Why has it been taught: Excepting its shearings and offsprings? — But. said R. Zera, it is as though he had said to him, 'Except its shearings and offsprings.' And why make this an absolute assumption? It may be taken for granted that one gives over those improvements which come from elsewhere, but not those which come from the stock itself.

Others state, Raba said: It becomes as though he said to him, 'If it is stolen, and you are willing to reimburse me, then it is yours from just before the theft.' Wherein do they [sc. the two versions of Raba's reply] differ? — They differ in respect of the difficulty posited by R. Zera; or if it was standing in the meadow.