The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן קנ"ג סעיף ח'-ט'

Overview

Siman 153 Seif 8:

A house that was built without designation and afterwards was sanctified as a *Bais HaKnesses* is bound by the *halachos* of a *Bais HaKnesses* but it is not sanctified until they *daven* there even if construction was done to make it into a *Bais HaKnesses*. Once *davening* takes place there, even if by guests temporarily, it becomes sanctified as a *Bais HaKnesses* since it was designated for *tefila*. If the sanctity was not intended to be permanent its sanctity depends upon what was stipulated.

- Even though it was initially used for mundane purposes it now becomes a *Bais HaKnesses* for all matters. (M.B. 48)
- Shulchan Aruch refers to where unconsecrated funds were used to construct the *Bais haKnesses* but when money was raised for the purpose of building a *Bais HaKnesses* the building may not be used for another purpose even though it does not yet have the sanctity of a *Bais HaKnesses*. If an individual builds a *Bais HaKnesses* he may not decide to use the building for another purpose even if it was not yet used as a *Bais HaKnesses*. (M.B. 49)
- If it was designated to be used as a *Bais HaKnesses* only temporarily, e.g., until Yom Tov or the fair is over, it is permitted even during Yom Tov for people to eat or drink there. (M.B. 51)
- If he designated the place for use during Yom Tov the implication is that it will be used whenever it is Yom Tov and that designation is considered permanent for the designated time. (M.B. 52)

Siman 153 Seif 9:

When villagers sell a *Bais haKnesses* the sale may be absolute and the buyer may do with the building as he chooses except for making it into a bathhouse, tannery, *mikvah* or a bathroom. If it was sold by the seven trustees in the presence of the members of the community the buyer may do with it as he wishes, even to make it into one of these four things.

- Even if the building collapsed and just a mound remains it may not be made into one of these four things. (M.B. 55)
- Pri Megadim wonders whether it is necessary to explicitly authorize the buyer to use the place for one of these four things. (M.B. 56)
- The seven trustees in the presence of the *tzibbur* may also decide to use the money for even mundane matters. (M.B. 57)
- Biur Halacha writes that this *halacha* is not so clear and one should be stringent. (M.B. 58)

Halacha Highlight

Selling a *Bais HaKnesses* for a disrespectful use

Shulchan Aruch Siman 153 Seif 9
והלוקח יעשה בו מה שירצה
And the buyer may do with it as he pleases

Shulchan Aruch (סעי' ט') writes that in circumstances in which it is permitted to sell a *Bais HaKnesses* the sale is final and the buyer may do with the *Bais HaKnesses* as he wishes except for four restrictions. The old *Bais HaKnesses* may not be made into a bathhouse, a tannery, a *mikvah* or a bathroom. However, if the *Bais HaKnesses* was sold by the seven trustees in the presence of the community, it may even be used for one of these four purposes. Mishnah Berurah (ס"ק נ"ח) points out that in Biur Halacha he noted that this leniency is not universally accepted and *l'chatchila* one should be stringent.

Poskim assert that the limitation is not specific to these four uses but includes any use that is disrespectful to the building or land that was previously used for a *Bais HaKnesses*. In general they write that it is prohibited to use a *Bais HaKnesses* for any disrespectful use or one that generates a foul odor. Thus it may not be used as a slaughterhouse nor may it be transformed into a place that will be used for uses that are not in accordance with standards of *tznius*. Rav Moshe Feinstein (אג"מ או"ח ח"ב סי' מ"ה) and Dayan Weiss (שו"ת מנחת יצחק ח"א סי' ק"כ) rule that a *Bais HaKnesses* may not sold to gentiles to use as their house of worship. There is a dispute whether a *Bais HaKnesses* may be sold to a gentile altogether. Dayan Weiss (שם אות ה'-ו') in the name of Maharsham permits selling a *Bais HaKnesses* to a gentile whereas Teshuvas Imrei Yosher (ח"ב סי' ל"ב) rules that it is prohibited out of concern that the gentile will transform it into a house of worship.

Whether a *Bais HaKnesses* may be sold for one of these four purposes by the seven trustees in the presence of the community is debated. However, if the *Bais HaKnesses* is needed for a *mikvah* there are numerous *Poskim* who rule in accordance with the lenient position in order to promote *taharah* amongst the Jewish People (פסקי תשובות אות י"ז).

Stories to Share

What's the Catch?

ש"ע, ס' קנ"ג, ח': "בנו בית סתם והקדישוהו אח"כ לבית הכנסת..."

Today's amud discusses the halachos of a house that was turned into a shul.

One man wished to purchase an apartment in a building with three floors. After he looked over the apartment, the price seemed too good to be true.

"What's the catch here?" he asked the agent who showed him the beautiful apartment with every amenity.

"Well," the agent replied, "there is a shul on the first floor two apartments below this one. Even though I understand that the only problem is regarding the apartment directly above the shul, people are not taking this apartment. So the owners lowered the price."

But of course the prospective buyer didn't know whether an apartment two floors above a shul was problematic. When he turned to Rav Yosef Shalom Elyashiv, zt"l, he ruled that being above a shul was a problem regardless of how many stories intervened. "Living above a shul is problematic even if one lives on the third floor and the shul is on the first floor.

שו"ת אבני ישפה, ח"א, סי' כ"ג

"It is important to check whether the shul is owned or rented however, since if it is in a rented apartment it has no holiness. Even if the renter declared the apartment holy, this has no halachic validity since only the owner can impart the holiness of a shul to his own apartment.

"But even if the apartment is rented, it is still proper to refrain from doing anything that could constitute an insult in the airspace above the aron hakodesh."

שיח חכמים, ח"ב, סוס"י ט"ו