The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Shabbos, Aug 24 2024 ■ כ' אב תשפ"ד
סימן שמ"ו סעיף ג'

Overview

Siman 346 Seif 3:

Chazal prohibited transferring something more than four *amos* in a *karpeif* (an area surrounded by partitions without a roof, e.g., a courtyard) **that is larger than 2 *beis se'ah* that was not enclosed for residential purposes. It is permitted to transfer items from a *karpeif* to another *karmelis*, for example, to a field that is in front of it.** Therefore, it is permitted to take a key from a *karmelis* that is in front of a garden to lock and unlock the garden and return the key to the *karmelis* provided that between them there is not a threshold that is a private domain, e.g., if it is ten *tefachim* high and four *tefachim* wide or if it has two walls on the side which are four *tefachim* wide and the lintel is four *tefachim* so that it is categorized as a private domain even though it is not ten *tefachim* tall. However, it is prohibited to transport items from the threshold to a private domain or vice versa out of concern that the lintel will not be four *tefachim* wide and in such a case if the threshold is not three *tefachim* tall it adopts the status of the domain that is adjacent to it. Even if it is three *tefachim* tall, since domains are treated as a *karmelis* the threshold will find its type and will adopt its categorization as explained in *siman* 345. Similarly, if the roof is very wide and does not have partitions on the side, it adopts the status of the domain that is in front of it and the same is true regarding our rooftops that extend in front of the houses which also adopt the status of the domain that is in front of it.

- This is a field that is 70 amos and 4 tefachim square. (M.B. 14)
- Since the area is so large Chazal were concerned that one would confuse it with a public domain so they treat it like a karmelis. (M.B. 16)
- Although Biblically the garden is a private domain since it is surrounded by partitions, once Chazal treat it like a karmelis, it is not prohibited to transfer items from it to the open field in front of it. (M.B. 18)
- It is even permitted for the door together with the key to enter the garden. (M.B. 19)
- This would involve transferring something from a karmelis to a private domain and from a private domain to a karmelis. (M.B. 20)
- The third wall is created by the lintel with the principle of פי תקרה יורד וסותם. (M.B. 22)
- If it is smaller it is not a private domain even if it has four walls. (M.B. 23)
- The threshold is a private domain even if it is not three tefachim tall or even if there is no threshold altogether since its status is set by the walls. (M.B. 24)
- Even if the threshold is a private domain, one should be stringent and refrain from transporting items from there to a private domain or vice versa out of concern for times that the threshold will not be four *tefachim* wide. (M.B. 25)
- It is also prohibited to transport items from the threshold to the public domain even if the threshold is not four *tefachim* wide. (M.B. 26)
- There is no difference whether the door is open or closed and it is always prohibited to transport something from the threshold to inside the house. When taking a key from a gentile who transported it to the *bais haknesses* one must be careful not to take it from him until both of you are standing beneath the lintel out of concern that it will be transported from the *karmelis* in front of the *bais haknesses* to the area under the lintel that may be a private domain. The door should not be opened while the key is inside the lock since the threshold may be a *karmelis* and opening the door with the key inside would constitute transporting the key from a *karmelis* to a private domain. Communities should make a small room in front of the locked door that is a private domain to avoid these issues. One must also be mindful when transporting items from in the house to the threshold not to transport them beyond the area where the door closes out of concern that the area beyond that is a *karmelis*. (M.B. 28)
- If the roof has posts supporting it by the street, by adding poles next to the house that correspond to the other poles one generates a *tzuras hapesach* and the area beneath the roof is a private domain. If there are many houses in a row it is sufficient to have a *tzuras hapesach* that extends from the first house in the row to the last house in the row but the residents must make an *eruv chatzeiros*. It is not permitted to transport items from the public domain to beneath the roof or vice versa. (M.B. 31)

Halacha Highlight

The area under an awning

Rema Siman 346 Seif 3 (b)
וכן בגגין הבולטין לפני הבתים
And similarly, houses the extend in front of houses

Rema presents many instances in which one domain adopts the status of the domain adjacent to it. The last example that he presents is a roof that extends in front of house that is adjacent to another domain and Rema rules that the area under the roof adopts the status of that other domain. Mishnah Berurah (ס"ק ל"א) explains that if the roof has posts at the edge that abut the public domain, it is possible to rectify the situation. If one places poles next to the house that are aligned with the posts, he creates a *tzuras hapesach* and the area is now surrounded by one partition (the wall of the house) and *tzuras hapesach* on three sides. If there are many houses in a row it is unnecessary for each house to make a separate *tzuras hapesach*; instead they can add one pole next to the first house and a second pole next to the last house and the roof that is in front of all of the houses is now enclosed and provided that the residents make an *eruv chatzeiros* it is permitted to carry items from the houses to under the roof or vice versa.

Sha'ar HaTziyun (ס"ק ט"ז) explains that it is not necessary for all of the houses to be adjacent. As long as the houses are not three *tefachim* apart from one another, we consider the area closed (*lavud*). Chazon Ish (או"ח סי' ע' ס"ק כ"ג ד"ה כתב עוד) adopts a more lenient position regarding this matter. He writes that if the space between the houses is less than ten *amos* and the two houses are more than ten *amos* wide the empty space does not have to be closed since we apply the principle עומד מרובה על הפרוץ—the closed space is greater than the open space and we see the space as though it is a doorway which does not render the area open.