The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שס"ב סעיף ג'-ד'

Overview

Siman 362 Seif 3:

A partition that came into existence on its own, meaning that it was not erected to serve as a partition is valid. A partition that was constructed on Shabbos is valid provided that it was constructed inadvertently but if it was erected intentionally it is a partition *l'chumra* in that one who throws something from a public domain into it is liable but not for leniency to permit transporting items within the enclosure. These rules apply when there was no partition there in the first place but if there were partitions there but were removed and subsequently returned, even if they were returned intentionally, the area reverts back to its original state of permission. For example, if two or three people enclosed themselves with mats in a public domain and further separated themselves from each other with mats and made a joint *eruv*, they are permitted to transport items from one area to the next. If the mats are rolled up it is prohibited but if they are subsequently spread out, even if done so intentionally, the area reverts back to its original permission.

- This is true even if it was not constructed for the sake of serving as a *mechitza*. (M.B. 17)
- If Reuven instructed Shimon to construct a partition to permit transporting items or if Reuven knew that Shimon was constructing the partition for him and Reuven is interested in utilizing the existence of the partition, Rambam implies that it is prohibited for Reuven to transport items even if Shimon erected the partition inadvertently since for Reuven it is considered intentional. (M.B. 18)
- It is prohibited for anyone to transport objects relying on such a partition on that Shabbos. (M.B. 19)
- This is certainly true if it was intentionally removed. (M.B. 21)
- Shulchan Aruch could have addressed the situation with one person but discussed a circumstance that involves two or three people to teach that even the *eruv* that they made is not nullified and they may transport items from one area to the next because of these partitions. (M.B. 22)
- Most *Poskim* maintain that when a wall was erected intentionally on Shabbos thereby creating a private domain we do not say that the area reverts back to its original permitted state unless otherwise the area was a private domain and one merely divided one area into two so that when that dividing wall fell and was erected again it is once again considered two domains even though it was constructed intentionally. If, however, there was never a partition there in the first place and it was erected on Shabbos it is prohibited even if its function is to separate dwellers into different areas. (M.B. 26)

Siman 362 Seif 4:

It is permitted to transport items throughout a boat, even if it is larger than two *bais seah* since it is considered enclosed for residential purposes (See below *siman* 366 and the end of *siman* 382). **If one inverted the boat to dwell beneath it even the area on top is considered a private domain. If it was inverted to apply pitch, one may not transport items more than four *amos* if the area of the boat is more than two *bais seah*.**

- When it was inverted to apply pitch the walls are no longer considered to have been made for residential purposes. (M.B. 29)

Halacha Highlight

A collapsing wall

Shulchan Aruch Siman 362 Seif 3
חזרו ונתפרסו אפילו במזיד
If they subsequently spread it, even if done intentionally

Shulchan Aruch (סעי' ג') rules that when a partition was intentionally made on Shabbos, it is considered a partition in the sense that one who tosses an object from a public domain into an area that was intentionally enclosed by constructing a partition on Shabbos is liable, but one may not transport objects more than four *amos* in such an enclosure. He then adds that this stringency applies when the partition did not exist altogether as Shabbos began but if a partition was in place but subsequently collapsed and was reconstructed, even intentionally, the area reverts back to its original permitted state. Therefore, if two or three people separated themselves from one another by extending mats but made an *eruv* so that they could transport items from one domain to the other and then the mats were rolled up and then re-extended, the areas revert back to their original permitted state. Mishnah Berurah (ס"ק כ"ו) cites the majority of authorities who maintain that when a partition that was created intentionally creates a private domain we do not say that it reverts back to its original state. That principle is applied only when the area remained a private domain even after the separating partition collapsed and the wall was replaced to subdivide the area into different areas.

Sefer Shoneh Halachos (סעי' י"בג) notes that Mishnah Berurah's statement that when the partition dividing a domain into two parts collapses the people are prohibited from transporting items since they prohibit one another contradicts another ruling. Mishnah Berurah (סי' שע"ד סק"ז) rules that when two yards are separated by a wall and the residents of each yard made an independent *eruv* and then the dividing wall collapsed, the residents of each yard may continue to transport items in their yard. The rationale is that once Shabbos began and they were permitted to transport items within their yard, it remains permitted for the duration of Shabbos. He does not suggest a resolution to this apparent contradiction.