The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שס"ט סעיף א'-סימן ש"ע סעיף א'

Overview

Siman 369 Seif 1:

If one gives money to a baker and instructs him to include him in the *eruv* so that he has a share of that bread if the other residents of his yard come to purchase bread for the *eruv*, it is not a valid *eruv* even if the shopkeeper made an *eruv* for the others and conveyed ownership to him as well as the others. However, if he said, "Make an *eruv* for me," he acquires a share of the *eruv*. Even if he said, "Acquire it for me," it is valid only if he gave him a utensil as a *kinyan* so that he should acquire the *eruv*. Similarly, if he conveyed ownership via a third party or if he acquired it for him with money that he gave him in the marketplace, he acquires a part of the *eruv*. If he gave money to one of the homeowners and asked him to acquire the *eruv* on his behalf, he has acquired a share of the *eruv*.

- It is assumed he intended to transfer ownership via the money rather than as a gift and the transfer of money does not constitute a valid proprietary act. (M.B. 2)
- It is effective in this case since he appointed him an agent to make an *eruv* for him. (M.B. 3)
- Since they are using the method of *chalipin*, once the utensil was transferred he acquires a share of the *eruv* food. (M.B. 4)
- He specified his name explicitly and it is effective since one can act for the benefit of others even without their consent. (M.B. 5)
- Some authorities question this because giving money indicates that he wished to purchase a portion rather than receive a gift and money is not a valid proprietary act. (M.B. 6)
- He became his agent to acquire the bread. (M.B. 7).
- The homeowner is conveying ownership to him together with the others and it is as if he appointed him his agent to make an *eruv*. (M.B. 8)

Siman 370 Seif 1:

One who dwells in a gate house, אכסדרה or balcony in the yard does not prohibit the other residents of the yard since these places are not places of dwelling. However, one who lives in a straw shed, wood shed, stable or storage facility does prohibit.

- A *sukkah* on Sukkos is also not considered a place of dwelling. If a house does not contain four amos by four *amos* square, it does not prohibit since it is not considered a dwelling. (M.B. 4)
- If one eats there it is considered a place of dwelling even though one does not sleep there. (M.B. 5)

Halacha Highlight

Sukkos

Shulchan Aruch Siman 370 Seif 1

שאינם חשובים דירה

They are not considered designated for dwelling

Shulchan Aruch (סי' ש"ע סע' א') rules that one who lives in a structure that is not designated for dwelling does not prohibit the other residents of the yard if he does not join the *eruv* (מ"ב סק"ג). Examples of these types of structures are gatehouses and balconies. Structures where people store straw, wood or their animals are considered designated for dwelling and if one eats there he prohibits the other residents of the yard even if that is not where he sleeps. Mishnah Berurah (סק"ד) adds a *sukkah* that one constructs for Sukkos to the list of structures that are non-dwelling structures. Sha'ar HaTziyun (סק"ג) notes that above (סי' שס"ו סע' ב') Shulchan Aruch ruled that those who live in a *sukkah* are obligated to join the *eruv* and suggests that in that discussion he referred to a *sukkah* that was constructed for permanent dwelling, e.g., for one who lives in the wilderness. He then notes that Rav Akiva Eiger expresses uncertainty regarding this *halacha*.

Sefer Binas Simcha (עמ' ש"י ומובא דבריו במ"ב מהד' דרשו הע' 3) points out another contradiction. In our *seif* Mishnah Berurah indicates that a *sukkah* is considered designated for dwelling and yet elsewhere Mishnah Berurah (סי' תקל"ד סק"ח) ruled that it is prohibited to transport objects from one *sukkah* to another even within the same yard, thereby indicating that a *sukkah* is considered designated for dwelling. He suggests that perhaps in that *halacha* Mishnah Berurah refers to where the *sukkah* is constructed adjacent to one's home so that it is considered another room of the house and thus separate from the other *sukkah* in the yard and utensils that began in that *sukkah* may not be transported to the other *sukkah*. Teshuvas Sha'arei Deah (ח"א סי' קצ"ט) writes that although a *sukkah* is not considered an area designated for dwelling to prohibit others from transporting objects in the yard, nevertheless, it is considered a house as far as transporting objects from the *sukkah* to the yard or to other *sukkos*.