The Chicago Center
Mishna Berura Digest
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Fri, Jan 1 2025 ■ ג' טבת תשפ"ה
סימן שע"א סעיף ג'-ד'

Overview

Siman 371 Seif 3:

If someone from the market owned a house in the yard and died before Shabbos leaving the house to one of the residents of the yard the one who acquired the house does not prohibit since the *eruv* he made for his home includes the property he inherited. If he died after Shabbos began he prohibits and the fact that the new owner had joined the *eruv* is not of consequence for what was inherited on Shabbos.

- Shulchan Aruch refers to where the deceased had not joined the *eruv* and the same would be true if he lived in the yard and did not join the *eruv*. (M.B. 9)
- This is true even if he joined the *eruv* before the testator died. (M.B. 11)

Siman 371 Seif 4:

If one of the residents of the yard died on Shabbos but had joined the *eruv*, even if his heir lives in the market he does not prohibit. If he did not join the *eruv* and someone from the market inherited the house, if he does not come to dwell in that house he does not prohibit but if he intends to dwell in the house that he inherited that Shabbos, he prohibits. If the house was inherited by one of the residents of the yard and that heir joined the *eruv* and shared a home with the testator he does not prohibit even though the testator did not join the *eruv*. If he did not live with the testator but owned another home in the yard he prohibits even though the testator joined the *eruv* since the heir did not join the *eruv*. If the testator died before Shabbos and someone from the market inherited the property he prohibits assuming that the heir entered the testator's home that Shabbos.

- If the testator was from the market it would also depend on whether he joined the *eruv* or not. (M.B. 15)
- Someone from the market inherited the house and moved in on Shabbos and obviously did not join the *eruv* but nevertheless, he does not prohibit the other residents of the yard since it was permitted at the outset of Shabbos and thus remains permitted for the remainder of Shabbos. (M.B. 16)
- If he dies and the house does not have residents it does not prohibit. (M.B. 18)
- The members of one's household can join an *eruv* on his behalf. (M.B. 20)
- Since he has a house in the yard and has the capacity to use that house, it is considered as though he moved in and thus prohibits. (M.B. 21)
- Since he died before Shabbos his *eruv* is nullified and it is as though he did not make an *eruv*. (M.B. 23)
- It becomes a house that has residents and he did not join their *eruv*. (M.B. 25)

Halacha Highlight

A resident that dies on Shabbos

Shulchan Aruch Siman 371 Seif 4
בא לדור בשבת בבית מורישו אוסר

If he inhabits on Shabbos the house of the testator, he prohibits

Shulchan Aruch (סעי' ד') discusses the *halacha* when one of the residents of a yard dies on Shabbos. If the one who died had joined the *eruv,* the heir to that house does not prohibit, even if he is not a resident of that yard. The reason is that since at the outset of Shabbos it is was permitted for the residents to transport objects due to the *eruv,* we apply the principle that once it was permitted at the outset of Shabbos it remains permitted for the remainder of Shabbos (מ"ב ס"ק ט"ז). If the one who died did not join the *eruv* but the heir who is not a resident of the yard does not intend to inhabit the house that Shabbos, he does not prohibit the others. The reason is that once the testator died and the house is left without inhabitants, it does not prohibit the others. However, if the heir intends to inhabit the house that Shabbos he prohibits the other residents of the yard. Mishnah Berurah (ס"ק י"ט) explains that once the heir intends to occupy the house he prohibits the other residents since he did not join the *eruv* unless he nullifies his ownership to the others.

Magen Avrohom (סק"ה) wonders why in the case where the heir intends to occupy the house on Shabbos he prohibits the other residents and we do not apply the principle that once it was permitted at the outset of Shabbos it remains permitted for the remainder of Shabbos. He answers that when a non-resident inherits the house we cannot say that he did not intend to live there and instead we are concerned that he may decide to move in on Shabbos. Rav Akiva Eiger (הגהות לשו"ע) questions this rationale since at the outset of Shabbos the testator was alive and the future heir never intended to move into the house and thus certainly did not have in mind to occupy the house and thus he should not prohibit. Therefore, Rav Akiva Eiger explains that it is prohibited since the testator himself did not join the *eruv* it was prohibited at the outset of Shabbos. If the heir did not move in it would be permitted since it would be a house without residents but once the heir moves in it is a house with residents that did not join the *eruv* and thus prohibits.