The Chicago Center
Mishna Berura Digest
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Shabbos, Jan 4 2025 ■ ד' טבת תשפ"ה
סימן שע"א סעיף ה'-ו'

Overview

Siman 371 Seif 5:

If a Jew and a convert share a yard and the convert dies before Shabbos and another Jew takes possession of the convert's land, he prohibits until he nullifies his ownership similar to an heir, even if he did not take possession of the land until after Shabbos began. If he died after Shabbos began, the one who takes possession does not prohibit since he remains under the original leniency.

- Shulchan Aruch refers to where they had made an *eruv* together and that is why he prohibits when he died before Shabbos since the *eruv* was voided. (M.B. 26)
- Even though at the outset of Shabbos the convert's house did not prohibit since it was ownerless, nevertheless, it is prohibited for the remainder of Shabbos since it was not clear that it would remain permitted for the duration of Shabbos. (M.B. 28)
- We consider the one who took possession similar to an heir who may nullify his ownership. (M.B. 30)

Siman 371 Seif 6:

If one of the residents of the yard was a *gosses*, even though he will not live the remainder of the day, he prohibits until they convey ownership of the bread to him and include him in the *eruv*. Similarly, a child prohibits even though he cannot eat an olive's volume. A guest does not prohibit as explained in *siman* 370.

- Magen Avrohom rules that if he dies on Shabbos he prohibits since the *eruv* could not last for the entire Shabbos. He refers to a circumstance in which someone from outside of the yard inherited the house and moved in on Shabbos or one of the residents of the yard inherited the house. The rationale is that since the *gosses* was not expected to remain alive for Shabbos the principle, once it was permitted at the outset of Shabbos, it remains permitted for the remainder of Shabbos, does not apply. If the *eruv* was made the previous Shabbos so that it was effective for an entire Shabbos, the principle applies even if one of the residents is a *gosses*. (M.B. 33)

Halacha Highlight

Taking possession of ownerless objects on Shabbos

Shulchan Aruch Siman 371 Seif 5
והחזיק ישראל אחר בנכסיו

And another Jew took ownership of his possessions

Shulchan Aruch (סע' ה') addresses a circumstance of a Jew and a convert that shared a yard and they made an *eruv*. However, the convert died before Shabbos leaving his home without a resident. If another Jew takes possession of the convert's home, even if he did not do so until after the onset of Shabbos, nevertheless, he is now considered the resident of that yard. Since he did not make an *eruv* with the other Jewish resident, it is prohibited to transport objects in the yard unless the new resident nullifies his ownership as is generally required of someone who inherits property on Shabbos. Mishnah Berurah (ס"ק כ"ח) explains that even though at the outset of Shabbos it was permitted for the remaining resident to transport objects in the yard since the other house had no residents, nevertheless, we do not apply the principle that once it was permitted at the outset of Shabbos it remains permitted for the remainder of Shabbos. The reason is that since it was fit for someone to take possession of the house before Shabbos, it was not clear that it would remain permitted for the duration of Shabbos and thus when the circumstance changes it becomes prohibited on Shabbos.

Rav Akiva Eiger (סי' של"ט על מג"א סק"ו) proves from this that one who finds an ownerless object on Shabbos that is not *muktzah* may take possession of that object and doing so does not violate the prohibition against engaging in business transactions on Shabbos. This is evident from our *halacha* because if taking possession of an ownerless object was prohibited we would assume that the convert's house would remain ownerless for Shabbos and we would apply the principle, once it was permitted at the outset of Shabbos etc. The fact that we entertain the possibility that someone will take possession of the house indicates that it is permitted to do so. However, he concludes by stating that the matter requires further research, וצ"ע.