The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שע"ב סעיף ו'-ז'

Overview

Siman 372 Seif 6:

If a house is between two yards and opens to each of them and the owner made an *eruv* with both of them but the two yards did not make a joint *eruv*, one may not transport objects that began in the house from one yard to the other via the house in the middle. If there is a partition ten *tefachim* tall between the two yards or if the ground of one yard was five *tefachim* taller than the other and they added a partition five *tefachim* tall on top so that the total height is ten *tefachim*, they may not make a joint *eruv*. If the partition is ten *tefachim* tall for each of them and there is fruit on the top of that partition, the residents of each yard may take the fruit from the wall into their yard or take fruit from their yard and place it on the wall and then remove it into the other yard regardless of whether the wall is four *tefachim* thick or not. However, fruit that began in the house may not be placed on or removed from a partition if the partition is four *tefachim* wide but if the partition is not four *tefachim* wide it is permitted (provided that one does not change the domain of the fruit as mentioned above in *siman* 346:1). **If the partition is ten *tefachim* high for one yard but less than that for the second yard, for example, the ground of one is higher than the other, the one for whom it is less than ten *tefachim* may use the top of the wall for utensils from his home but the other one may not use it even for utensils that began Shabbos in his yard. This assumes the wall is four *tefachim* wide but if it is not four *tefachim* wide they may both use it even for objects that began in their respective homes and even if they each made their own independent *eruvin*.**

- Even though utensils from the middle house may be transported to either yard and from the other houses to their yard, nevertheless, it is prohibited to transport objects from a house in one yard to a house in the other yard. If however, each *eruv* was stored in the middle house it is permitted to transport objects from one yard to another. (M.B. 40)
- Even a thin wall separates the two yards. (M.B. 41)
- The top of the partition is similar to a roof. Objects may only be moved to the yard but not to the houses even if it is four *tefachim* wide. (M.B. 45)
- It doesn't matter whether each yard made an independent *eruv* or not. (M.B. 46)
- Once it is four *tefachim* wide it is an independent domain and is not subordinate to another domain. (M.B. 47)
- When it is less than four *tefachim* it is a *makom patur* and thus it is permitted to transport objects from the house to it or from it into the house. (M.B. 48)
- This could lead to transporting objects directly from a house to the other yard without stopping along the way. (M.B. 49)
- Shulchan Aruch refers to where he made an *eruv* in his yard because if he did not it would be prohibited to transport objects from his house to his yard. (M.B. 50)
- For him the top of the wall is comparable to the ground of the yard. (M.B. 51)
- If the other resident uses the wall he would prohibit even the first resident from using the wall, therefore we assign use of the wall to the one who has easier use of the wall. Even HaOzer contends that the resident of the other yard may use the wall for utensils that began Shabbos in the yard. (M.B. 52)

Siman 372 Seif 7:

If a partition is breached but less than ten *amos* it is considered an entrance provided that it is not breached entirely. If it is breached more than ten *amos* the yards are considered one domain and they must make a joint *eruv*. (And certainly when there is not a ten *tefach* partition separating them a joint *eruv* is necessary.)

- Ten *amos* exactly is also part of this ruling. (M.B. 54)
- Thus they have the option to make separate or joint *eruvin*. (M.B. 55)
- If it is breached entirely, they must make a joint *eruv*. (M.B. 56)
- A part of the wall on each end must remain or at least four *tefachim* on one side. (M.B. 57)
- If they each made independent *eruvin* they prohibit one another. If a *tzuras hapesach* was added to the breach they may then make separate *eruvin*. (M.B. 59)

Halacha Highlight

Transporting objects from one domain to another via a *makom patur*

Rema Siman 372 Seif 6
ובלבד שלא יחליפו

Provided that they do not change the object's domain

Shulchan Aruch (סעי' ו') discusses a ten *tefach* partition that separates two yards and there is fruit on that partition. The *halacha* is that either resident may take the fruit from the wall into their yard and may even take fruit that was in their yard and place it on the partition and then remove it to the other yard. This is true regardless of whether the partition is four *tefachim* wide or less. The reason is that *halacha* sees roofs (i.e. the top of the wall) and yards as one domain. However, with regards to fruit that began Shabbos in one of their homes, the matter depends upon the thickness of the wall. If the wall is four *tefachim* thick it is a separate domain and household objects may not be placed on it and objects may not be removed from the wall to the houses (but to the yard is permitted (בה"ל ד"ה ולא להריד). If the wall is less than four *tefachim* wide it is permitted since the top of the wall is considered a *makom patur* (מ"ב ס"ק מ"ח). Rema, however, adds one additional condition which is that one may not intentionally place it on the wall as a means to transport it to the other yard out of concern that it will lead to transporting objects directly from the house to the other yard (מ"ב ס"ק מ"ט).

Mishnah Berurah (שם) notes that Rema is actually referencing a matter that is subject to debate and is leaning towards the stringent opinion. The debate is whether there is a Rabbinic injunction against transporting objects from one Rabbinic domain to another via a *makom patur*. All authorities agree that transporting an object between Biblical domains via a *makom patur* is Rabbinically prohibited but there is a debate whether that injunction extends to Rabbinic domains.