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

Overview

Siman 375 Seif 1:

A landing, which is the way to reach the upper story apartments by means of ascending a ladder from the yard and the residents of the upper story descend the ladder into the yard to gain access to the public domain, does not prohibit the residents of the yard. The reason is that the ladder is categorized as an entrance and thus there are two yards with an entrance between them so that if they want to make a joint *eruv*, they may do so and if they want to make separate *eruvin*, they may do so. The above assumes that the residents of the upper story made an *eruv* amongst themselves so that they are permitted in their area.

- Shulchan Aruch refers to where they did not make a joint *eruv* and the landing is more than ten *tefachim* higher than the ground. (M.B. 1)
- They may each bring household items into their respective domains but not into one another's domains since they did not make an *eruv*. (M.B. 2)
- If they did not make an *eruv* in their own domain they would also prohibit the residents of the yard from transporting household objects into their domain. (M.B. 3)

Siman 375 Seif 2:

If they did not make a joint *eruv* and there is a mound or post in the yard that is jointly owned and that post is not ten *tefachim* tall, it belongs to them both and they prohibit one another from transporting household objects into the yard. If the post is more than ten *tefachim* tall (and within ten *tefachim* of the landing) **and horizontally is within four *tefachim* of the landing, the residents of the upper story may use it since they have easier use of the post than the residents of the yard. If it was more than four *tefachim* from the landing, even though it is ten *tefachim* tall** (from the ground of the yard and within ten *tefachim* of the landing) **it is part of both the yard and the landing since both of them must throw an object to make use of it and thus they prohibit one another from transporting household objects onto the post until they make an *eruv*.**

- Whenever one domain has easy access and the second domain has difficult access, the domain with difficult access does not prohibit. If their access is equal, whether easy or difficult, they prohibit one another from transporting household objects to that area. Throwing or lowering are considered difficult access but if it involves throwing or lowering less than ten *tefachim* it is considered easy access unless it is more than four *tefachim* from the landing so that it would be necessary for the residents of the upper story to throw the object onto the post. (M.B. 5)
- They would each have easy access and thus they prohibit one another. (M.B. 6)
- This assumes that the mound or post is within four *tefachim* of the landing. (M.B. 7)
- Although from the perspective of height it should belong to the landing, since it is four *tefachim* away from it, even the residents of the landing have difficult use of it. (M.B. 10)
- There is a dispute if it is also more than ten *tefachim* beneath the landing, whether it belongs to the residents of the yard since it is less difficult for them or whether they prohibit one another since it is difficult for both of them. If there is a pit that is surrounded by a ten *tefach* mound that is within four *tefachim* of the landing, they prohibit one another even if the pit is filled with water to the top. If it is filled with something that may not be moved on Shabbos it is treated as a post or mound. (M.B. 11)

Halacha Highlight

A shared water pit

Mishnah Berurah Siman 375 Seif Koton 11
בור שבחצר

A water pit located within a yard

Mishnah Berurah (סע' ב' ס"ק י"א) discusses the status of a pit that is located in a yard and the residents of the yard as well as the residents of the upper story share ownership of the pit. He rules that when the pit is surrounded by a mound that is ten *tefachim* tall and is within four *tefachim*, horizontally, of the landing, and they did not make a joint *eruv*, they prohibit one another from drawing water with a household utensil. It is also prohibited to take water that was drawn with a bucket that began Shabbos in the yard into their respective homes. The reason is that it is considered as though both of them have difficult use of the pit. The residents of the yard have difficult use since they must throw their bucket to get it above the mound and the residents of the landing have difficult access since they must lower their bucket more than ten *tefachim* in order to be able to draw water.

Mishnah Berurah (שם) then emphasizes that even if the pit is filled to the top with water so that the residents of the landing do not have to lower their bucket ten *tefachim,* it is prohibited out of concern that the water level will drop over the course of Shabbos so that they must lower their bucket ten *tefachim*. In the Gemara's discussion of this *halacha* its initial thinking is that if the water level is at the top of the pit, it would be permitted for the residents of the landing to use the pit even if the water level were to drop on Shabbos since we would employ the principle that once it was permitted at the outset of Shabbos it remains permitted for the duration of Shabbos. However, according to the conclusion the Gemara decided that we do not apply this principle when we anticipate that circumstances will change over the course of Shabbos such as in this case where it is likely that the water level will drop (ריטב"א פ"ד).