The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Tues, Jan 28 2025 ■ כ"ח טבת תשפ"ה
סימן שפ"ב סעיף ו'-ט'

Overview

Siman 382 Seif 6:

The lease is effective for as long as the gentile does not cancel the agreement, even for an extended period of time. He may not cancel the agreement until he returns the money.

- Shulchan Aruch refers to where there was no timeframe associated with the original agreement. (M.B. 23)
- If the gentile chooses he may cancel the agreement after the first Shabbos. (M.B. 24)
- If he wishes to cancel the agreement he must return the money. Other authorities disagree and maintain that after the first Shabbos the gentile can cancel the agreement without returning the money since the duration of the agreement was not specified. (M.B. 25)

Siman 382 Seif 7:

If one leased property from the gentile for a specified period of time it is necessary to renew the lease once that time expires as well as make a new *eruv* since the original *eruv* does not reactivate.

- Even if the gentile wishes to continue the agreement, a new lease agreement must be made. Taz writes that if the gentile dies the lease does not pass to his heirs and a new lease must be made with them. Other authorities contend that within the timeframe of the original lease the agreement continues even if the heirs do not wish for it to continue. If there was no timeframe to the original lease and the gentile dies all opinions agree that a new lease agreement must be made with the deceased's heirs. (M.B. 26)
- By renewing the lease the *eruv* does not reactivate automatically. (M.B. 27)

Siman 382 Seif 8:

If one leased property from a gentile for a specified period of time and within that time the gentile leased his property to someone else, the original lease suffices.

- The implication is that if the original lease was for an unspecified period of time it would be necessary to lease the property from the second person. (M.B. 28)
- There is a disagreement whether selling the property to another person is the same as leasing it to another person. (M.B. 29)

Halacha Highlight

A gentile who subleases his dwelling

Shulchan Aruch Siman 382 Seif 8
ובתוך הזמן השכיר האינו יהודי דירתו לאחר
And within that time the gentile subleased the dwelling to another

Shulchan Aruch (סע' ח') rules that if one leases space from a gentile for a specified period of time and within that time the gentile subleased his house to another gentile, the original lease the Jews had with the gentile owner remains in force and it is not necessary to make a lease with the new gentile tenant. Teshuvas HaRashba (שו"ת הרשב"א מיוחסות סי' ר"ז) explains that once the Jews acquired space in the gentile's home, the gentile may not cancel that agreement. Consequently, if the gentile subleases his house to another gentile the original lease agreement with the Jews remains in force. Mishnah Berurah (ס"ק כ"ח) notes that according to this rationale, if the lease agreement with the gentile was not for a specified period of time and the gentile subleased his house to another person it is necessary to make a lease with the second gentile.

Mishnah Berurah (ס"ק כ"ט) also writes that Shulchan Aruch's ruling is true not only when the gentile subleases his house to another gentile but even if he sells the house to another gentile. The reason is that a lease is merely a sale of the property for a given period of time. Therefore, there is no difference whether the gentile owner sold his house for a given period of time or forever, and in both cases the rights the Jews acquired to store objects in the gentile's home remain in force. He notes, however, that there are authorities who disagree and contend that selling the property is not the same as subleasing the property and if the gentile sells his home to another gentile, the Jews must lease space from the buyer. The reason for the difference (ע' שעה"צ סק"ל מהחכ"צ ח"א סי' ו') is that when the property is merely subleased, the gentile owner retains ownership of the land (קנין הגוף) and that ownership is sufficient to keep the lease with the Jews active but if he sells the house altogether, he loses his entire ownership of the property and thus the lease agreement with the Jews disappears.

Siman 382 Seif 9:

If five people live in a yard, one resident could lease property from the gentile on behalf of all of them.