The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Wed, Jan 29 2025 ■ כ״ט טבת תשפ״ה
סימן שפ״ב סעיף י׳-י״א

Overview

Siman 382 Seif 10:

If one leased the property against the will of the gentile it is not effective even though he used to lease his property to them.

- Meaning, they may not deposit the money on his table without his consent. (M.B. 31)

Siman 382 Seif 11:

One may lease the property from the gentile's wife, *sechiro* or *lekito*, despite the gentile's protest. (The *sechiro* of the gentile's *sechiro* or *lekito* is comparable to the *sachir* of the gentile property owner.)

- The same is true concerning one of the other members of his household. (M.B. 32)
- Since the only reason for the restriction is so that one should not learn from the behavior of the gentile, one may consider the *sechiro* to be the property owner. According to other authorities one may not even lease the property from the gentile's wife if he protests. (M.B. 34)
- This applies when the first *sachir* has the authority to hire his own *sachir* who may use the entire house so that he is also considered a *sachir* of the gentile. (M.B. 35)

Siman 382 Seif 12:

If the gentile does not want to lease his property one of the residents of the yard should develop a relationship with him to secure permission to leave something in the gentile's home so that the Jew should be considered his *sachir* or *lakit* and then the Jew can lease it to others. Some maintain that it is not necessary to lease it and it is sufficient to just make an *eruv*.

- Someone who is not a resident of the yard may do the same thing. (M.B. 36)
- According to many authorities it is effective even if he subsequently removes his possessions since he acquired to right to place his items there. (M.B. 37)
- He became a partner in his property. (M.B. 38)
- This opinion maintains that borrowing space from a gentile also suffices. (M.B. 40)
- *L'chatchila* one should accommodate the first opinion. (M.B. 41)
- Shulchan Aruch implies that the necessity to contribute towards the *eruv* applies when the Jew is a resident of the yard but Rashba contends that even if the Jew who befriended the gentile does not live in the yard he must contribute to the *eruv* once he has space in the gentile's home. (M.B. 42)

Siman 382 Seif 13:

If the gentile lent a designated space to the Jew, since the Jew is not an agent of the gentile in the entire house, the Jew's presence is not effective.

- Authorities explain that this stringency is limited to where the gentile is not authorized to use that space and cannot evict him from there as well. If the gentile shares that space or can evict him, they have a sharing relationship and the Jew can act as his partner. (M.B. 43)

Halacha Highlight

A gentile who refuses to lease his domain

Shulchan Aruch Siman 382 Seif 12
אם אינו רוצה להשכיר
If the gentile does not wish to lease his domain

Shulchan Aruch (סעי׳ י״ב) addresses a circumstance in which the gentile does not wish to lease any of his domain to the Jewish residents of the yard and thus is an impediment for them to transport objects in the yard. His advice is for someone to develop a relationship with that gentile and secure from him the right to place something in his domain. Once this is accomplished, that Jew who now has something stored in the gentile's domain qualifies as a *sachir* or *lakit* of the gentile. As a *sachir* or *lakit* he is authorized to lease the gentile's space to the other residents of the yard even without the approval or authorization of the gentile.

Mishnah Berurah (ס״ק ל״ז) explains that when the Jew places his object in the gentile's domain he acquires that space. Chazon Ish (או״ח סי׳ פ״ב ס״ק ל״ג) contends that it is not necessary to make a *kinyan* with the gentile for his space and simple permission to place something in his domain is sufficient. He further challenges Bais Yosef who does require the Jew to acquire space within the gentile's domain. In order to make a *kinyan* it is necessary for the owner to instruct the other party לך חזק וקני—Take possession of it and thereby acquire it and the Gemara does not indicate that the Jew placing his object in the gentile's domain has any requirement to make a *kinyan*. He also notes that Bais Yosef is following a consistent opinion regarding these matters. Bais Yosef maintains that placing the object in the gentile's domain is a form of rental and as such it is necessary for the Jew to make a *kinyan*. However, Chazon Ish maintains that placing something in the gentile's domain makes the Jew into a *sachir* or *lakit* and thus a *kinyan* is not required to form that relationship.