The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שפ"ב סעיף ט"ז-י"ח

Overview

Siman 382 Seif 16:

If a gentile has five *sechirim* or *likitim* living in his home, their dwelling is not significant that they prohibit one another (because a gentile's dwelling does not prohibit if he leased space from the home owner.)

- Each one has his own room. (M.B. 52)
- Their dwelling is not their own since the owner could move them to another location. (M.B. 53)
- They also do not prohibit the other residents of the yard. (M.B. 54)
- It should say ושכירו rather than ושכירות and the intent is that if the residents leased space from the gentile owner, it is not necessary to lease space from the *sechirim* or *likitim*. (M.B. 55)
- It is also sufficient to lease space from one of the *sechirim* and it is not necessary to lease space from all of them. (M.B. 56)

Siman 382 Seif 17:

If there are two yards, one behind the other and a Jew and gentile live in the inner yard and another Jew lives in the outer yard, or if a gentile lives in the outer yard and a Jew lives in the inner yard, or even if a gentile lives in the inner yard and two Jews live in the outer yard, he prohibits. There is an authority who maintains that even when a Jew is in the inner yard and a Jew is in the outer yard, he prohibits.

- We consider it as though they all dwell in the outer yard since they have rights of passage and the decree that the Jew may learn from his behavior applies. However, the Jew who lives in the inner yard may transport items from his house to the yard since the gentile does not prohibit an individual Jew since he does not have rights of passage in the inner yard. (M.B. 58)
- People do not know who lives in the inner yard and may think that a Jew also lives in the inner yard and when they see the Jew transporting objects in the outer yard they may mistakenly conclude that it is permitted without leasing space from the gentile. However, we do not subscribe to this view. (M.B. 59)

Siman 382 Seif 18:

If a gentile leased his house to his gentile friend, if he retains any control over the house, i.e., he has the right to place utensils there, the Jews may lease space from him. If he did not retain any control but the owner can remove the tenant before the lease expires, the Jews may lease space from him but if not, they must lease space from the tenant. It is also acceptable to lease space from someone else who has some control over the house since he is no worse than the owner's *sachir* and *lakit*.

- Since he has the right to use the house they may lease space from him. (M.B. 60)
- They may certainly lease space from the tenant since currently the house is his. (M.B. 62)
- Permission to lease something there is sufficient and it is not necessary to actually place something there. (M.B. 64)

Halacha Highlight

A condominium with a gentile resident

Shulchan Aruch Siman 382 Seif 17

שתי חצרות זו לפנים מזו

If there are two yards, one behind the other

Up until this point Shulchan Aruch discussed the *halachos* that apply when two Jews and a gentile share the same yard. Shulchan Aruch (סע' י"ז) now addresses a slightly different configuration. There are two yards, one in front that leads directly to the *mavoi* and a second yard behind the first one that leads into the first yard. The fundamental principle is that if it is possible to group together the two Jews and gentile into the outer yard by virtue of the rights of passage the residents of the inner yard have on the outer yard, the presence of the gentile prohibits the Jews from transporting objects unless they first lease space from him. Therefore, if a Jew and gentile share the inner yard and the second Jew lives by himself in the outer yard, since all three of them have at least rights of passage through the outer yard, the gentile prohibits. Similarly, if a Jew and gentile live in the outer yard and the second Jew lives by himself in the inner yard, the gentile prohibits them in the outer yard since by virtue of the rights of passage the inner resident has in the outer yard, they are all considered residents of the outer yard.

The more common application of this is condominiums. In the event that the first floor is occupied by two Jews and a gentile and the second floor is occupied exclusively by Jews, all opinions agree that the residents of the second floor may make an *eruv* amongst themselves to permit transporting items in the common hallway without regard for the gentile who lives on the first floor. For this matter we consider the stairs to constitute a partition. If the gentile lives on the second floor with two other Jewish residents and the first floor is occupied entirely by Jews, according to Shulchan Aruch since the gentile passes through the first floor he prohibits them as well. However, Chazon Ish (או"ח סי' צ"ו ס"ק י"ח) maintains that even in this situation the staircase is considered a partition and we do not consider it as though the gentile has rights of passage through the first floor and thus does not prohibit (מ"ב מהד' דרשו הע' 87).