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Digest
Mishna Berura
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סימן שפ"ג סעיף א'

Halacha Highlight

An out of town gentile

Shulchan Aruch Siman 383 Seif 1
ואין האינו יהודי בביתו
And the gentile is not home

Shulchan Aruch discusses a yard which has two Jews and a gentile as occupants. Generally, the *halacha* is that if the Jews wish to transport objects in the yard they must lease space from the gentile and then make an *eruv* between themselves. In this *siman* the gentile and his entire household (מ"ב סק"ב) went away for Shabbos. In such a circumstance the gentile is considered to not be a resident of the yard for Shabbos and does not prohibit the Jews from transporting objects in the yard. Rema directs our attention to *siman* 371 and Mishnah Berurah (סק"ג) explains that two opinions are cited there regarding how far the gentile must be from his home for him to not be considered a resident. According to the first opinion he must be more than a day's journey from his home town whereas according to the second opinion even if he is within a day's journey he does not prohibit as long as he does not return on Shabbos.

When it is common for the gentile to be away at the outset of Shabbos but returns on Shabbos, according to Taz (מובא במ"ב סי' שע"א סק"ה) he will prohibit according to all opinions. Sefer Shoneh Halachos (סע' ב') references Chazon Ish (סי' פ"ב ס"ק כ"ד) and writes that the implication is that he maintains that even when the gentile intends to return on Shabbos, until he actually returns, he does not prohibit the Jews. Furthermore, the gentile does not prohibit until his return only when his original intent was to return after eating his meal in the other town. However, if the gentile's intent was to return and eat his meal at home, he prohibits even if it turns out that he did not return for the meal. However, Rav Simcha Bunim Waldenberg and Rav Nosson Kopshitz (מכתבים ומובא דבריהם במ"ב מהד' דרשו הע' 1) disagree with the understand of the Shoneh Halachos and contend that according to Chazon Ish's conclusion if the gentile intends to return he prohibits the Jews and the *halacha* will not depend upon the actual return on the gentile.

Overview

Siman 383 Seif 1:

If a gentile resides with two Jews but the gentile is not home, he does not prohibit (See above *siman* 371) **and they should make an *eruv* so that transporting objects should be permitted. If the gentile returns on Shabbos he prohibits and the *eruv* is invalidated. However, they may lease space from him on Shabbos and then one of the Jews will nullify his domain to the other so that the other Jew will be permitted to transport items in the yard on Shabbos. If the gentile dies on Shabbos it is certainly acceptable for one to nullify his domain to the other so that he should be permitted.**

- The gentile and members of his household went to another city for Shabbos. (M.B. 2)
- There is a dispute there whether the gentile prohibits if he is within a one day journey of his home. (M.B. 3)
- It is permitted for the one to whom the domain was nullified unless he in turn nullified the domain back to the other. (M.B. 7)
- Shulchan Aruch refers to where they did not lease space from the gentile because if they did and made an *eruv*, they remain permitted even if the gentile dies on Shabbos and has heirs who will take possession of his estate. (M.B. 8)