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Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שצ"א סעיף ב'

Halacha Highlight

Making an *eruv* so that the residents should be counted as one entity

Shulchan Aruch Siman 391 Seif 2
אינם אוסרים עליהם
They do not prohibit upon them

Shulchan Aruch discusses Jews who live in a yard in a walled city whose citizens are gentiles. It happened to be that some Jews were travelling and took up lodging in another yard in the city. The *halacha* is that those Jewish guests are not considered residents. If they were considered residents it would be necessary for the two groups of Jews (citizens and guests who occupy different yards) to make a joint *shituf* and lease space from the gentile residents of the city. Since they are merely guests they are subordinate to the permanent citizens of the city. Even though they are not even lodging in the same yard as the citizens, they can be considered subordinate to them since the city is enclosed by a wall and thus could be considered one domain.

Mishnah Berurah (ס"ק י"ט) further explains that although there are many Jews who reside in the yard, nevertheless, it is permitted for them to transport objects from their yard to the *mavoi* since when it comes to the *shituf* we consider all the residents of the yard to be one person when an *eruv* was made. In other words, the analogy that a *mavoi* is to yards what a yard is to houses so that we can consider the residents of a yard as though they are a single individual is limited to where the residents made an *eruv*. Biur Halacha (סע' א' ד"ה שאם) also mentioned this idea when he discussed Shulchan Aruch HaRav's ruling that when the residents of a yard nullify their domain they are considered one entity and he wrote that this is due to the fact that they made an *eruv*. What is curious about this explanation is that it is not evident from the Rishonim who discuss the matter. There are commentators who suggest that the principle may have originated with the Levush and Elya Rabba (מ"ב מהד' עוז והדר המבואר הע' י"ד).

Overview

Siman 391 Seif 2:

If Jews occupy a single yard in a gentile populated city that is enclosed by a wall and Jews passed through there on Shabbos and are lodging in another yard, they do not prohibit since guests do not prohibit and it is permitted to transport objects throughout the city (See above the end of *siman* 370).

- The same *halacha* applies if they lodge in the same yard occupied by Jews and gentiles and it is permitted for everyone to transport objects in the yard even without an *eruv* or leasing space from the gentile. (M.B. 21)
- The guests may transport objects throughout the city. Although Magen Avrohom maintains the guests may not transport objects from the house where they are lodging, we follow Shulchan Aruch's position that they are permitted. (M.B. 23)
- This is true when the city is enclosed with a wall or repaired with an *eruv* so that it is considered one domain because otherwise the Jews prohibit one another if a Jew lives in another yard. Some contend that a guest does not prohibit when he does not visit regularly but if he does, he prohibits. Others disagree and contend that he does not prohibit as long as he is a guest and does not remain for more than thirty days at a time. (M.B. 24)