The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן ת' סעיף א'

Overview

Siman 400 Seif 1:

If someone was travelling with the intent to enter a city and sat down to rest and Shabbos began and did not realize that he was within the city's *techum* and subsequently realizes that he is within the *techum*, he acquired his residence in the city. Therefore, he may enter the city and walk the entire area as well as 2000 *amos* in each direction beyond the city limits. If he did not intend to enter the city he acquired residence in his place and from there may walk 2000 *amos* in each direction. If his 2000 *amos* conclude halfway through the city he may not walk more than halfway through the city. The same *halacha* applies for one who intended to enter the city but declared his residence in his spot, therefore that spot is his residence.

- This is true even if he intended to establish residence in that spot. (M.B. 1)
- Since he intended to enter the city and had he realized that the city was within his current *techum* he would not have intended to establish residence in that spot, we consider his residence in the city. This assumes that he wants his residence in the city but if he prefers to retain his current residence, he may do so. (M.B. 2)
- This is true even if he did not intend to establish residence here, e.g., he fell asleep before Shabbos, and after waking on Shabbos realized that he is within the *techum* of the city, nevertheless, he is not considered a resident of the city. (M.B. 4)
- If his 2000 *amos* conclude at the end of the city, the entire city is calculated as only four *amos* and he may continue to walk beyond the *techum* until he reaches 2000 *amos*. (M.B. 5)
- When he verbalizes his intent to acquire residence in that spot, even though initially his intent was to enter the city and his declaration was only because he did not realize that he was close to the city, nevertheless, he already uprooted his residence and has 2000 *amos* from the his present spot. (M.B. 6)

Halacha Highlight

Intent to establish residence

Shulchan Aruch Siman 400 Seif 1
קנה שביתה במקומו
He acquires his residence where he is

Shulchan Aruch first addresses one who was travelling to reach a city before Shabbos but sat down to rest and while resting Shabbos began and he did not realize that he was already within the *techum* of the city. When he subsequently realizes that he is within the *techum* of the city, he is considered a resident of the city. The reason is that we take into account his intent to become a resident of the city and understand that had he realized that the city was within his *techum* he would have wanted to establish residence within the city; therefore, we categorize him as a resident of the city. On the other hand, if he did not intend to establish residence in the city his residence is established in the place where he is at the outset of Shabbos and is given 2000 *amos* in each direction from his present location. Mishnah Berurah (סק"ד) explains that his residence is established in that place even if he did not intend to establish residence there. For example, he went to sleep during *bein hashemashos* and did not wake until after dark. Even if he realizes at that point that he is within the *techum* of the city he is not considered a resident of the city.

Mishnah Berurah follows the implication of Rambam's position about this matter, but Ritva adopts a different position. He implies that one who went to sleep before Shabbos and did not wake until it was already Shabbos but realizes that he was within the *techum* of the city all along is categorized as a resident of the city despite his ignorance of his location. The reason is that the individual is drawn into a city for establishing his residence since unless there is an indication to the contrary, a person is assumed to want to establish his residence in a city rather than in a field.