The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Tues, Mar 4 2025 ■ ד' אדר תשפ"ה
סימן ת"א סעיף א'

Overview

Siman 401 Seif 1:

If a traveler was sleeping when Shabbos began he acquires his residence in that spot and is given 2000 *amos* in each direction. The rule applies specifically to a person where we say, "If he were awake he would acquire residence so when he is sleeping he will also acquire residence." Ownerless objects, on the other hand, do not acquire residence and are like the feet of the one who takes possession of them and may transport them to any location where he may travel. Objects owned by gentiles acquire residence in their location even though their owners do not acquire residence out of concern that people will confuse the possessions of a gentile and the possessions of a Jew. If a gentile transported an object from beyond the *techum* into the city, it may be transported throughout the city since the entire city is treated as 4 *amos* provided that the city is enclosed for residential purposes. Regular cities were enclosed for residential purposes since they first construct houses and then enclose it but regular forts were not enclosed for residential purposes. Therefore, when a Jew lends his object to a gentile who returns it on Shabbos he must be careful not to transport it out of its 4 *amos* if the city is not enclosed since all of the utensils acquired residence by the gentile.

- Ownerless objects do not acquire residence since they lack *da'as* and thus are not similar to a sleeping person. (M.B. 2)
- Shulchan Aruch refers to the place the object was resting as Shabbos began and from there may be transported 2000 *amos* in each direction. (M.B. 4)
- Objects taken outside of their *techum* may not be transported more than 4 *amos* but since we consider an enclosed city to be 4 *amos* it may be transported throughout. (M.B. 6)
- If it was enclosed before inhabited it may not transported more than 4 *amos* if the enclosed area is larger than two *bais seah*. Our open cities that have *tzuros hapesach* closing the *mevo'os* are considered enclosed for residential purposes since the houses form walls and the open areas are closed with a *tzuras hapesach*. A *chatzer* is always treated as 4 *amos*. (M.B. 7)
- Although the object belongs to a Jew, it acquired residence with the gentile and this is certainly true when a Jew borrows a gentile's object on Shabbos. (M.B. 9)

Halacha Highlight

Enclosing a city

Shulchan Aruch Siman 401 Seif 1

שבונים בתים תחלה ואחר כך מקיפים אותם

They first construct cities and then enclose them

Shulchan Aruch discusses objects that were transported by a gentile from beyond the *techum* on Shabbos. He rules that it is permitted to transport the imported object throughout the city since we assign the city the status of 4 *amos*. In other words, although generally when an object is transported out of its *techum* it becomes confined to the four *amos* into which it is placed, nevertheless, since a city is considered for these purposes to be only four *amos* it is permitted to move the object throughout the city (מ"ב סק"ו). Shulchan Aruch then adds that this rule applies only regarding a city that was enclosed by a wall for residential purposes but objects imported from beyond the *techum* into cities that are not enclosed by walls or into cities that were not enclosed for residential purposes, may not be moved beyond their four *amos*. He then informs us that regular cities are assumed to have been enclosed for residential purposes. Interestingly, in Hilchos Purim Rema (סי' תרפ"ח סע' א') writes that regular cities are assumed to have been enclosed before they were inhabited which is the opposite of what Shulchan Aruch tells us should be assumed in our case.

Mishnah Berurah (שם סק"ד) suggests that Rema does not mean that they construct the wall before any of the houses. They would indeed construct the houses first, but since they intended all along to construct the wall, for the purpose of *megilla* reading it is considered as though the wall was constructed first. Chasam Sofer (הגהות לסי' תרפ"ח) answers that in the time of Yehoshua since walls were constructed to protect the residents, they would indeed construct the wall first and then the homes within the city. Therefore, in that context Rema writes that that was the norm. In our context Shulchan Aruch refers to walls that are constructed to beautify a city and such a wall is added after the people settled in the area and thus he writes that one can generally assume that the area was first inhabited and the enclosed with a wall.

- Rema refers to clothing since other objects may not be moved more than 4 *amos* since there is no *eruv*. On Yom Tov it applies to other objects since there is no restriction against transporting objects. (M.B. 10)