The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן ת"י סעיף ב'-סימן תי"א סעיף א'

Overview

Siman 410 Seif 2:

When we discuss one who acquires residence at a distance if he has begun to travel we do not mean that he is already walking in the field; rather even if he descended from the upper story to walk to that location and before he exited his yard his friend called him back, he is considered to have begun his journey and relocated his residence. Anyone who acquires residence at a distant place does not have to verbalize that his residence is in that location, once he decided to relocate and began to travel, he acquires residence there. It goes without saying that one who walked to that location and stood there is not required to verbalize anything since once he made the mental decision, he acquires residence.

- Some authorities contend that this is limited to one who has two houses in different *techums* so that we could say that beginning to travel is sufficient but if that is not the case we assume when he turned back that he no longer intended to relocate his residence unless he articulated that as his intent. (M.B. 7)

Siman 410 Seif 3:

If the residents of a city sent someone to transport their *eruv* to a particular location and that agent began to travel there but was called back by his friend so that he did not place the *eruv* in its intended location – the residents do not acquire residence in that location since their *eruv* was not placed there and they may only walk 2000 *amos* in each direction of their city. However, he acquires his residence at the intended location since he intended to establish residence there and began to travel there. Therefore, on Shabbos day he may walk to that intended location and from there 2000 *amos* in each direction.

Siman 411 Seif 1:

Someone who was east of his house in a field and asked his agent to make an *eruv* to the west and the agent placed the *eruv* more than 2000 *amos* from the principal but within 2000 *amos* of his home, the *eruv* is invalid and he remains with the *techum* of his home. If the *eruv* was placed within his 2000 *amos*, even though it is also within 2000 *amos* of his home, his residence is the location of the *eruv* rather than his home.

- This is different from *siman* 409 where he is confined to his current location since in that case he was travelling and did not intend to acquire residence there as opposed to this case where if he cannot relocate his residence, he would like to remain in the *techum* of his home. Others explain that in this case the reason he remains in his original *techum* is that the agent erred and agents may only affect beneficial outcomes rather than detrimental outcomes. According to this reasoning even if he was travelling he would not lose his present location as his residence if the agent errs. In a circumstance of necessity one could be lenient. (M.B. 3)
- The agent fulfilled his agency and he has 2000 *amos* from that location. (M.B. 4)

Halacha Highlight

A failed attempt to relocate one's residence

Shulchan Aruch Siman 411 Seif 1
ונשאר לו שביתת ביתו
He remains with the residence of his home

Shulchan Aruch (סי' תי"א אי) addresses someone who is in the field to the east of his house and asks an agent to make an *eruv techumin* for him to the west of his house. If the agent placed the *eruv* in a location where it is more than 2000 *amos* from the principal's present location but his house is within his 2000 *amos* of the *eruv*, it is invalid. Mishnah Berurah (סק"ג) explains that since the *eruv* was placed more than 2000 *amos* from his current location it is inaccessible during *bein hashemashos* and thus invalid. Since the *eruv* is invalid he reverts back to the residence of his home and is assigned 2000 *amos* in each direction from there. Mishnah Berurah then notes that this ruling is inconsistent with Shulchan Aruch's ruling in *siman* 409:11. In that case a person who was travelling intended to establish his residence under a tree that was more than 2000 *amos* away. Shulchan Aruch's ruling is that since the *eruv* is too far, his residence is not established under the tree but on the other hand, since he intended to establish residence there he loses his current residence and is confined to his four *amos*. Why in our case does he revert back to his current residence including the associated *techum* whereas in that case he is not assigned what would have been his *techum*?

Mishnah Berurah suggests two answers. The first is that in *siman* 409 Shulchan Aruch was discussing a traveler who does wish to establish his residence in his current location and thus when he unsuccessfully attempts to relocate elsewhere, he is left without a residence. In our case since he is in his house he certainly would not mind reverting back to his present *techum*. Alternatively, in our case Shulchan Aruch discusses an agent who was sent to fulfill a mission. Once he failed and his mission is nullified, the principal reverts back to his original *techum*. In the other case the person himself made an unsuccessful attempt to relocate his residence and once he failed he must deal with his failure and one of those consequences is that he loses his current residence as well. Biur Halacha (סד"ה ונשאר) rules that although there are numerous authorities that subscribe to the second explanation, nevertheless, since there are some authorities who follow the first explanation, one may be lenient in a circumstance of need.