The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Shabbos, Oct 19 2024 ■ י"ז תשרי, תשפ"ה
סימן תרנ"ח סעיף ז'-ח'

Overview

Siman 658 Seif 7:

If partners purchased a *lulav* or *esrog* together, neither one can use it to fulfill his obligation, unless his partner gives him his share as a gift. This is true when it was not purchased for the sake of the *mitzvah* but if it was purchased for the sake of the *mitzvah* each one can use it to fulfill his obligation since it is assumed that it was with that intent that it was purchased.

- One must own it exclusively. (M.B. 29)
- It is sufficient if it is given as a gift on condition that it is returned. (M.B. 30)
- Since they knew when they purchased it that it cannot be divided it is as if they stipulated that when each one wishes to fulfill the *mitzvah* it will be his exclusively on condition that he gives his partner back his share. It is best for them to articulate this as each one takes the *lulav* to fulfill the *mitzvah*. (M.B. 32)

Siman 658 Seif 8:

Brothers who purchased *esrogim* from their father's undivided estate and then one of them took an *esrog* to fulfill the *mitzvah*, if he can eat it and the brothers would not care, he fulfilled the *mitzvah* but if they would care he does not fulfill the *mitzvah* until they give away their share as a gift. If one brother purchased an *esrog* and another purchased a quince or if they collectively purchased an *esrog*, pomegranate and a quince from their father's undivided estate, one does not fulfill the *mitzvah* of *esrog* until the others give him their share of the *esrog* even though if he were to eat it they would not care. The reason is that as long as they do not have more of that variety, their *mechila* is not effective. If more of that variety is available, if the one he took was better quality than the others their *mechila* is effective being that they don't mind.

- It was purchased for consumption. (M.B. 33)
- That way it is considered his. (M.B. 35)
- Although they do not mind if he eats it but they want it to fulfill the *mitzvah*. (M.B. 36)
- They want to fulfill the *mitzvah* the same as him. (M.B. 37)

Siman 658 Seif 9:

The custom in places where *esrogim* are not readily available is for the *tzibbur* to purchase an *esrog* as partners. The rationale is that since they purchased it to fulfill the *mitzvah* it is as if each one specified that each member of the *tzibbur* will give his share to whoever wishes to fulfill the *mitzvah* on condition that it is returned. The collection is made in accordance with each person's finances because *hidur mitzvah* is a greater obligation for the wealthy than the poor. A woman is exempt from contributing to the *esrog* fund since she is not obligated to fulfill the *mitzvah*. Each person should strive and make an effort to obtain his own *esrog* and *lulav* so that he could properly fulfill the *mitzvah*.

- Chaye Adam writes that even when each person contributes what he wants, someone who is capable of contributing but does not do so does not fulfill the *mitzvah*. (M.B. 38)
- Since people are ignorant of this *halacha* it is better to recite the *beracha* on one's personal מינים ד' than to use a friend's even though his is more *mehudar*. If one does not have his own it is preferable to use a friend's rather than one that belongs to the *tzibbur*. (M.B. 39)
- *L'chatchila* they should announce that each person should give his share as a gift on condition that it is returned. (M.B. 40)
- If a woman would like to recite the *beracha* she must contribute. (M.B. 41)
- Even when the 1st day is Shabbos so that he will not fulfill the Biblical obligation it is still preferable to obtain one's own מינים ד'. If one has his own *lulav* and in another city they do not have one, he should send them his and he should use the one that belongs to his *tzibbur* others disagree since the set that belongs to the *tzibbur* will become invalidated after so much use. (M.B. 42)

Halacha Highlight

Purchasing an *esrog* with communal funds

Shulchan Aruch Siman 658 Seif 9
שכל הקהל קונים אתרוג בשתפות

That the entire *kehilla* purchases an *esrog* in partnership

Shulchan Aruch (סע' ט') addresses what used to be a more common practice which was for the community to purchase a *lulav* collectively and for each member of the community to take that *lulav* to fulfill the *mitzvah*. Although on the 1st day (and outside of Eretz Yisroel even the 2nd day) it is necessary for each person to own his *lulav* to fulfill the *mitzvah*, nevertheless, it is considered as though each person conveys ownership of his part of the *esrog* to whoever wishes to take it to fulfill the *mitzvah* on condition that it is returned. Mishnah Berurah (ס"ק ל"ט) adds that although *halachically* this is a reliable approach, nevertheless, since not everyone knows how to convey ownership of their portion, it is best for one to recite the *beracha* on his own *lulav* rather than use a friend's, even though the one he has is not as beautiful as his friend's. If one does not have his own *lulav,* it is preferable to use one that belongs to a friend rather than one that belongs to the community.

Teshuvas Rav Pealim (ח"ב או"ח סי' ס"ד) was asked whether it is preferable for a community to purchase an *esrog* from communal funds or should they use the privately owned *esrog* of one of the wealthy members of the community. He answered that they should avoid purchasing an *esrog* from communal funds and offered a number of reasons for his position. Ritva writes that one should not use an *esrog* purchased with communal funds since the children of the community also have rights to those funds and it is considered as though the children own part of the *esrog* and they are incapable of conveying ownership. Secondly. Ra'avad expresses concern that people in the community do not know how to convey ownership as opposed to "borrowing" the wealthy person's *esrog* where each person who borrows it returns it to the owner so only the owner needs proper intent. Finally, he writes that purchasing an *esrog* is not proper use of *tzedaka* funds and thus when possible it should be avoided.