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Mishnah: If two courtyards were one within the other<sup>1</sup> and the tenants of the inner one prepared an eiruv<sup>2</sup> while those of the other one did not prepare one, the unrestricted use of the inner one is permitted but that of the outer one is forbidden. If the tenants of the outer one prepared an eiruv but not those of the inner one, the unrestricted use of both courtyards is forbidden. If the tenants of each courtyard prepared an eiruv for themselves, the unrestricted use of each is permitted to its own tenants. Rabbi Akiva forbids the unrestricted use of the outer one because the right of way<sup>3</sup> imposes restrictions.<sup>4</sup> The Sages, however, maintain that the right of way imposes no restrictions upon it. If one of the tenants of the outer courtyard forgot to contribute to the eiruv, the unrestricted use of the inner courtyard is permitted but that of the outer one is forbidden. If a tenant of the inner courtyard forgot to contribute to the eiruv, the unrestricted use of both courtyards is forbidden.<sup>5</sup> If they<sup>6</sup> deposited their eiruv in the same place and one tenant, whether of the inner courtyard or of the

outer courtyard, forgot to contribute to the eiruv, the use of both courtyards is forbidden. If the courtyards, however, belonged to separate individuals these need not prepare any eiruv.<sup>7</sup> (75a)

GEMARA: When Rav Dimi came he stated in the name of Rabbi Yannai: This is the opinion of Rabbi Akiva who ruled: Even a foot that is permitted in its own place<sup>8</sup> imposes restrictions in a place to which it does not belong, but the Sages maintain: As a permitted foot does not impose restrictions, so does not<sup>9</sup> a forbidden foot either.<sup>10</sup>

The Gemara asks: We learned: If the tenants of the outer one prepared an eiruv but not those of the inner one, the unrestricted use of both courtyards is forbidden.<sup>11</sup> Now whose ruling is this? If it be suggested that of Rabbi Akiva, the difficulty would arise: What was the point in speaking of a forbidden foot seeing that the same restrictions would also apply to a permitted one? Must it not then be a ruling of the Rabbis? — It may in fact be the ruling of Rabbi Akiva,

<sup>1</sup> The inner one opening into the outer which opened into public domain and through which the tenants of the inner one had right of way.

<sup>2</sup> For themselves alone, to enable them to have the unrestricted use of their own courtyard.

<sup>3</sup> Lit., ‘the treading of the foot’, of each of the tenants of the inner courtyard through the outer one in the eiruv of which he had not joined.

<sup>4</sup> Despite the fact that each of the inner tenants is permitted the unrestricted use of his own courtyard.

<sup>5</sup> As the tenants of the inner courtyard are forbidden the unrestricted use of their own courtyard they impose restrictions on the use of the outer one on account of their right of way.

<sup>6</sup> The tenants of the two courtyards who joined in one eiruv.

<sup>7</sup> Since the single owner of the inner courtyard is permitted its unrestricted use he, in agreement with the view of the Rabbis, cannot impose restrictions in the use of the outer one though he has a right of way through it.

<sup>8</sup> The courtyard in which the person (or persons) lives.

<sup>9</sup> In a courtyard in which that tenant (or tenants) does not live, though he has a right of way through it.

<sup>10</sup> Though it is (a) forbidden in its own courtyard and (b) has a right of way through the other courtyard.

<sup>11</sup> From which it follows that if the tenants of the inner one also prepared an eiruv the unrestricted use of both courtyards is permitted; obviously because ‘a foot that is permitted in its own place’ imposes no restrictions ‘in a place to which it does not belong’.

but<sup>12</sup> the arrangement, it may be explained, is in the form of “not only this but even this.”<sup>13</sup>

The Gemara asks: We learned: If the tenants of each courtyard prepared an eiruv for themselves, the unrestricted use of each is permitted to its own tenants. The reason then is because it prepared an eiruv,<sup>14</sup> but if it had not prepared one, the unrestricted use of both courtyards would have been forbidden.<sup>15</sup> This Tanna then holds that a permitted foot imposes no restrictions and that only a forbidden foot imposes restrictions. Now who is it? if it be suggested that it is Rabbi Akiva, the objection could be raised, did he not lay down that even a permitted foot imposes restrictions? Must it not then be the Rabbis? Furthermore: Since the clause following is the ruling of Rabbi Akiva, is it not obvious that the earlier clause does not represent the view of Rabbi Akiva? — The entire Mishnah represents the views of Rabbi Akiva but it is as if there are missing words, and the correct reading being the following: If the tenants of each courtyard prepared an eiruv for themselves. the unrestricted use of each is permitted to its own tenants. This, however, applies only where it made a barrier,<sup>16</sup> but if it made no such barrier the unrestricted use of the outer courtyard is forbidden; these are the words of Rabbi Akiva, for Rabbi Akiva forbids the unrestricted use of the outer one because the right of way imposes restrictions. The Sages, however,<sup>17</sup> maintain that the right of way imposes no restrictions.

<sup>12</sup> In answer to the objection; If no inference is to be drawn from it, what need was there to state a ruling which may be deduced from Rabbi Akiva's specifically expressed ruling that followed it.

<sup>13</sup> Rabbi Akiva first laid down the ruling under discussion (‘forbidden foot’) and then he added in effect: Not only does a ‘forbidden foot’ (if the tenants of the outer one prepared an eiruv but not those of the inner one) impose restrictions on the use of the outer courtyard but even a ‘permitted foot’ (if the tenants of each courtyard prepared an eiruv) also imposes the same restrictions.

<sup>14</sup> In consequences of which its tenants have the status of a ‘permitted foot’.

<sup>15</sup> Apparently because a ‘forbidden foot’ imposes restrictions in the place through which it has right of way.

<sup>16</sup> Which shut it off from the outer courtyard and thus deprived itself of its right of way through the outer courtyard.

Rav Bivi bar Abaye raised an objection: If the courtyards, however, belonged to separate individuals these need not prepare any eiruv; from which it follows that if they belonged to several persons an eiruv must be prepared. Is it not thus obvious that a foot permitted in its own place imposes no restrictions and that a foot forbidden imposes restrictions?

Ravina, furthermore, raised the following objections: If one of the tenants of the outer courtyard forgot to contribute to the eiruv the unrestricted use of the inner courtyard is permitted but that of the outer one is forbidden. If a tenant of the inner courtyard forgot to contribute to the eiruv, the unrestricted use of both courtyards is forbidden. The reason<sup>18</sup> accordingly is that a tenant forgot, but if he had not forgotten, the use of both courtyards would have been unrestricted. Is it not thus obvious that a foot permitted imposes no restrictions and one forbidden does?<sup>19</sup>

Rather, Ravin when he came stated in the name of Rabbi Yannai that three different views have been expressed on this question: The first Tanna holds that a permitted foot imposes no restrictions and a forbidden one does; Rabbi Akiva holds that even a permitted foot imposes restrictions; while the latter Rabbis<sup>20</sup> hold that as a permitted foot does not impose restrictions so does not one that is forbidden. (75a)

<sup>17</sup> Differing from Rabbi Akiva both in the case where the tenants of each courtyard prepared an eiruv for themselves as well as where the tenants of the other one prepared an eiruv but not those of the inner one.

<sup>18</sup> Why the unrestricted use of both courtyards is forbidden.

<sup>19</sup> Of course it is. Now this cannot be a ruling of Rabbi Akiva since he explicitly restricts the use of the outer courtyard even where both courtyards had prepared eiruv. It must consequently be that of the Rabbis who accordingly impose restrictions where a tenant of the inner courtyard forgot to contribute to the eiruv. How than could Rav Dimi maintain that according to the Rabbis even a forbidden foot imposes no restrictions?

<sup>20</sup> To whom Rav Dimi referred.

If they deposited their eiruv in the same place and one tenant, whether of the inner courtyard . . . forgot etc. What is meant by “the same place”? [The following mnemonic is here entered in brackets: The external itself in a lonely house, Ravina who does not forget within. It embodies striking words or ideas contained in the previous discussion on our Mishnah occasioned by Rav Dimi’s tradition.] — Rav Yehudah citing Rav explained: The other courtyard.<sup>21</sup> But why is it described as ‘the same place’? Because it is a place designated for the use of the tenants of both courtyards.<sup>22</sup>

So it was also taught: If they deposited their eiruv in the outer courtyard and one tenant, whether of the outer, or of the inner courtyard, forgot to contribute to the eiruv, the unrestricted use of both courtyards is forbidden. If they deposited their eiruv in the inner one and a tenant of the inner one forgot to contribute to the eiruv, the unrestricted use of both courtyards is forbidden. If a tenant of the outer courtyard forgot to contribute to the eiruv the unrestricted use of both courtyards is forbidden. This is the view of Rabbi Akiva. The Sages, however, ruled: In this case the unrestricted use of the inner one is permitted, through that of the outer one is forbidden. (75a – 75b)

Said Rabbah bar Chanan to Abaye: Why did the Rabbis make a distinction when they laid down that the

unrestricted use of the inner courtyard is permitted? Obviously because its tenants can shut its door and so use it. Why then should they not shut its door, according to Rabbi Akiva also, and so use it? — The other replied: The eiruv causes them to be associated. Doesn’t the eiruv cause them to be so associated according to the Rabbis also? — The tenants can say: ‘We have associated with you in order to improve our position but not to make it worse’. Why could they not, according to Rabbi Akiva, also say: ‘We have associated with you in order to improve our position but not to make it worse’? — Because the others can reply: ‘We will renounce our rights of entry in your favor’.<sup>23</sup> And the Rabbis?<sup>24</sup> — The tenants of one courtyard cannot renounce their rights in favor of those of another.<sup>25</sup>

Must it be assumed that Shmuel and Rabbi Yochanan<sup>26</sup> differ on the same principle as that on which the Rabbis and Rabbi Akiva differ, Shmuel holding the same view as the Rabbis and Rabbi Yochanan holding that of Rabbi Akiva?<sup>27</sup> — Shmuel can answer you: I may maintain my view even according to Rabbi Akiva, for it is only here, where two courtyards, one within the other, impose restrictions upon each other, that Rabbi Akiva upheld his view, but not there where they do not impose restrictions upon each other. Rabbi Yochanan also can answer you: I may maintain my view even according to the Rabbis, for it is only here that the Rabbis maintain their view, since the tenants of the inner courtyard can say to those of the outer

<sup>21</sup> The use of the inner one is in such a case forbidden (even where only one of the outer tenants failed to join in the eiruv) since its tenants, on account of their eiruv that lay in the outer courtyard, cannot shut up their door and separate themselves from the latter; and the use of the outer one is equally forbidden (even where only an inner tenant failed to join in eiruv) on account of the ‘forbidden foot’ of the inner one that imposes restrictions on it. Where, however, the eiruv was deposited in the inner courtyard it is only the forgetfulness of one of its own tenants that causes the restriction of the outer one on account of its ‘forbidden foot’. The forgetfulness of all outer tenant, however, imposes no restrictions on the tenants of the inner one since they can well shut up their door and, by separating themselves from the outer one, have the free use of their own courtyard.

<sup>22</sup> The inner one having a right of way through it.

<sup>23</sup> ‘So that our association in the eiruv would involve you in no disadvantage’. Rabbi Akiva’s prohibition of the unrestricted use of the inner courtyard is limited to the period prior to such renunciation.

<sup>24</sup> If by renunciation the tenants of the inner courtyard regain their full rights, how could they object to their association with the other on the ground mentioned?

<sup>25</sup> Lit., ‘there is no renunciation of rights from one courtyard to another’. As those of the outer courtyard cannot consequently renounce this right in the inner one in favor of its tenants the latter might well plead against the disadvantage resulting from their join eiruv’, ‘We have associated with you in order to improve etc.’

<sup>26</sup> Who offered on the permissibility of renunciation by the tenants of one courtyard in favor of those of another, where a door led from one courtyard into the other.

<sup>27</sup> But if the principle is the same, why should it be discussed twice?

one, 'Until you make renunciation in our favor you are imposing restrictions upon us'<sup>28</sup> but not there where one courtyard does not impose restrictions upon the other.<sup>29</sup> (75b)

If the courtyards, however, belonged, to separate individuals etc. Rav Yosef stated: Rebbe learned: If they were three they are forbidden.<sup>30</sup> Said Rav Bivi to them: 'Do not listen to him. It was I who first reported it, and I did so in the name of Rav Adda bar Ahavah, giving the following as a reason: Since I might describe them as many residents<sup>31</sup> in the outer courtyard'.<sup>32</sup> 'Master of Abraham', exclaimed Rav Yosef. 'I must have mistaken Rabbim for Rebbe'.<sup>33</sup> Shmuel, however, ruled: The unrestricted use of both courtyards is always permitted except where two persons occupied the inner courtyard and one person the outer one. (75b)

Rabbi Elozar ruled: A gentile is regarded as many Israelites. But wherein does an Israelite, who imposes no restrictions, essentially differ in this respect? Obviously in this: That he who knows is fully aware of the circumstances, and he who does not know presumes that an eiruv had been duly prepared. Why then should it not be said in the case of a gentile also: He who knows is fully aware of the circumstances and he who does not know presumes that the gentile has duly let his right of way? —

<sup>28</sup> Since by accepting the advantage of the one they must also accept the disadvantage of the other they might well decline to accept either. Hence the Rabbis' prohibition of renunciation.

<sup>29</sup> As in that case renunciation is purely advantageous, involving no disability whatever, the Rabbis may well have allowed it.

<sup>30</sup> The unrestricted use of the courtyards, unless they prepared an eiruv. For if two persons occupied the inner courtyard they impose restrictions upon each other and, as a 'forbidden foot' and on account of their right of way, on the occupiers of the other courtyard also; and if one person only occupied the inner courtyard he also imposes the same restrictions as a preventive measure against the possible relaxation of the law where two occupied it.

<sup>31</sup> 'Rabbim', a word which a listener might mistake for 'Rebbe'.

<sup>32</sup> Though the inner courtyard is occupied by one person only the same restrictions apply, as a preventive measure.

<sup>33</sup> Rav Yosef, as a result of a serious illness, lost his memory; and faintly recollecting the word rabbim' ('many') assumed it to represent the name of 'Rebbe'.

The average gentile, if ever he lets his right, makes a noise about it.<sup>34</sup> (75b)

Rav Yehudah citing Shmuel ruled: If there were ten houses one within the other, the innermost one contributes the eiruv, and this is sufficient. Rabbi Yochanan, however, ruled: Even the outer one must contribute to it. 'The outer one'! Is it not like a gate-house? — The outer house of the innermost one<sup>35</sup> was meant. On what principle do they differ? — One Master holds the view that the gate-house of one individual is regarded as a proper gate-house while the other Master holds the view that it is not regarded as a proper gate-house. (75b)

Rav Nachman citing Rabbah bar Avuha who had it from Rav ruled: If there were two courtyards between which there were three houses,<sup>36</sup> one tenant may come through the one outer house and deposit his eiruv in the middle one, and another tenant may come through the outer house and deposit his eiruv in the middle one. The one [outer house] thereby becomes a gate-house to the one [courtyard] and the other [outer house] becomes a gate-house to the other [courtyard] while the middle house, being the house in which the eiruv is deposited, need not contribute any bread to the eiruv. (75b – 76a)

<sup>34</sup> It is possible, therefore, for a person who was unaware that the inner courtyard was occupied by one gentile only to assume that it was occupied by more than one, and that the reason why they imposed no restrictions was not because they let their right of way to the Israelite (for had they done so they would have made a noise about it) but because (a) right of way imposes no restrictions or because (b) an eiruv prepared by the Israelite tenants of the two courtyards is effective even though the gentile tenant did not let them his right of way. Hence the necessity for Rabbi Elozar's preventive measure.

<sup>35</sup> Sc. the last house but one, or the ninth from the courtyard, which is used as a passage by the innermost tenant only. All the other houses, however, since they are used as thoroughfares for two or more tenants definitely assume the status of gate-houses which do not contribute to the eiruv of the courtyard.

<sup>36</sup> The two outer ones opening into the two courtyards respectively and the middle house having a door leading into each of the two houses.