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Eiruv Daf 66

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There are similarities between joining in an *eiruv* and the laws of leasing the rights of a gentile.

The Nehardeans examined the ruling of Rabbi Yochanan¹: How could Rabbi Yochanan have said that? But Rabbi Yochanan said that the laws of leasing are akin to the laws of joining in an *eiruv*. Does this not mean that as the preparation of an *eiruv* must take place while it is yet day so must renting also take place while it is yet day?² — Rather, the similarities are as follows: Just like one can join in an *eiruv* by contributing even less than the value of a *perutah*, one can lease from the gentile his rights even less than the value of a *perutah*. Furthermore, just like if a gentile resides in a *chatzer*, his Jewish employee or farmhand can join in an *eiruv*, so too the gentile’s farmhand or employee can lease out the rights in the *chatzer*. And just like when five people reside in one *chatzer* one can act on behalf of all of them with regard to joining in an *eiruv*, so too regarding leasing, when five people reside in one *chatzer*, one can lease the rights of the gentile in the *chatzer* for all of them. (66a)

Shmuel made three statements regarding relinquishing rights in a *chatzer*.

Rabbi Elozar was astonished at it.³ ‘What’, Rabbi Zeira asked: ‘could have been the cause of Rabbi Elozar’s astonishment?’ That such a great man as Rabbi Zeira, exclaimed Rav Sheishes,

should not know why Rabbi Elozar was astonished! His difficulty, [of course] was a ruling of his Master Shmuel who laid down: (I) Wherever residents of a *chatzer* restrict the *chatzer* in carrying (if they do not join in an *eiruv*) and they could have joined in an *eiruv*, they can relinquish their rights of passage in the *chatzer* to one resident.⁴ (II) If the residents of the *chatzer* could join in an *eiruv* but they would not restrict by not joining in an *eiruv*, or (III) if they would restrict but they could not join in an *eiruv*, in both cases they cannot relinquish their rights.

Rav Sheishes explained the statement of Shmuel that wherever residents of a *chatzer* restrict the *chatzer* in carrying and they could have joined in an *eiruv*, they can relinquish their rights of passage in the *chatzer* to one resident. This refers to a case where the two *chatzeiros* are one behind the other (and the residents of the inner *chatzer* must traverse the outer *chatzer* in order to reach the *mavoi* or public domain).

Regarding the second statement of Shmuel that if the residents of the *chatzer* could join in an *eiruv* but they would not restrict by not joining in an *eiruv*, they cannot relinquish their rights, this refers to a case where the two *chatzeiros* are next to each other, and there is an entranceway between them. [Even without joining in an *eiruv*, each *chatzer* remains exclusive in that its respective residents can carry within that

¹ When he leased the rights from a gentile on Shabbos.

² How then could it be asserted that Rabbi Yochanan approved of the renting of the gentile’s share on the Shabbos?

³ At R’ Yochanan’s decision to rent the gentile’s share on the Shabbos and to renounce the individual Israelites’ rights in favor of one of them.

⁴ This individual cannot carry from the other resident’s houses, as they did not relinquish rights in their houses, but he can carry from his house into the *chatzer*.

particular *chatzer*. If they needed to carry from one *chatzer* to the other, they cannot relinquish their rights to techs other, because relinquishing their rights is only allowed if otherwise the residents will be restricted from carrying.]

Regarding the case where they would restrict but they could not join in an *eiruv*, what does this come to include? It includes the case of a gentile who resides in the *chatzer* with two Jews.⁵ If the gentile had arrived prior to Shabbos, he could have leased his rights before Shabbos.⁶ Rather, he was referring to a case where the gentile arrived on Shabbos and the rule is that when they restrict but could not join in an *eiruv*, they cannot relinquish their rights. This is conclusive.⁷ (66a - 66b)

There is a dispute regarding relinquishing rights from one *chatzer* to another and regarding relinquishing rights in a ruin.

I, observed Rav Yosef, have never before heard this reported ruling. Said Abaye to him: You yourself have taught it to us and you said it in connection with the following. For Shmuel said that there is no relinquishment of rights from one *chatzer* to another and there is no relinquishment of rights in a ruin. And you told us in connection with it that when Shmuel said that 'no domain may be renounced where two courtyards are involved' he meant it to apply only to two courtyards that had one door in common, but where one courtyard was within the other, since the tenants impose restrictions upon one another, they may also renounce their rights. Could I, the former questioned, have reported such a ruling in the name of Shmuel? Didn't Shmuel in fact state: 'In the laws of *eiruv* we can only be guided by the wording of our Mishnah', [viz.,] 'the tenants of one courtyard', but not those of two courtyards? — When you told us, the other explained, that 'In the laws of *eiruv* we can only be guided by the wording of our Mishnah' you said it in connection with the

⁵ The two Jews restrict each other from carrying, but the gentile prevents them from joining in an *eiruv*.

⁶ Or even if he refused to lease his rights, the *chatzer* is considered to have the option of making an *eiruv*, because the potential to lease the rights exists.

following: Since a mavo to its courtyards is as a courtyard to its houses. (66b)

[To turn to] the main text: Shmuel ruled that no domain may be renounced where two courtyards are involved nor may it be renounced in the case of a ruin. Rabbi Yochanan disagrees and maintains that there is relinquishment of rights from one *chatzer* to another *chatzer* and there is relinquishment of rights in a ruin.

The *Gemora* notes that we needed to state their arguments in both cases, because one may have thought that Shmuel only maintains that rights cannot be relinquished from one *chatzer* to another because the residents of each *chatzer* do not require the use of the other *chatzer*, so the Chachamim did not allow relinquishing of rights from one *chatzer* to another. A ruin, however, which functions for both houses that can access it, I would think that Shmuel agrees with Rabbi Yochanan and they can relinquish rights. Conversely, I would think that Rabbi Yochanan only said that rights can be relinquished in a ruin because the ruin is a benefit to both houses, but regarding two *chatzeiros*, perhaps Rabbi Yochanan would agree with Shmuel that one *chatzer* cannot relinquish rights to another *chatzer*. Therefore it was necessary to state both cases. (66b)

Rava maintains that even when two *chatzeiros* are one behind the other, sometimes they may relinquish their rights and sometimes they may not relinquish their rights.

Abaye said that when Shmuel stated that there is no relinquishment of rights from one *chatzer* to another, this was stated only with regard to two *chatzeiros* that are next to each other and there is an entranceway between them. If the two *chatzeiros* are behind each other, however, since the residents of the inner *chatzer* restrict the rights of the outer *chatzer*, they can relinquish their rights of passage to allow carrying.

⁷ Which proves that renunciation of individual shares in favor of one of the tenants is permissible only where the tenants were allowed to prepare an *eiruv* on the Shabbos eve. Hence Rabbi Elozar's astonishment.

Rava disagrees with Abaye and Rava maintains that even when the *chatzeiros* are behind each other, sometimes they can relinquish their rights and sometimes they cannot relinquish their rights.

How so? Rava mentions four cases where it is possible to relinquish rights. The first and second cases are when they placed an *eiruv* in a house of the outer *chatzer*, and someone from either the inner or outer *chatzer* forgot to join the *eiruv*. In this case both *chatzeiros* are restricted.⁸ The third case mentioned by Rava is if the *eiruv* was placed in a house in the inner *chatzer*, and a resident of the inner *chatzer* forgot to join in the *eiruv*, both *chatzeiros* are restricted.⁹ The fourth case mentioned by Rava is when a resident of the outer *chatzer* forgot to join in the *eiruv*; (if he relinquishes his rights) the inner *chatzer* will be permitted, but the outer *chatzer* will still be restricted.¹⁰ (66b)

[Rava elaborates on the first case:] 'If the tenants deposited their *eiruv* in the outer courtyard and one tenant, whether of the inner courtyard or of the outer courtyard, forgot to participate in the *eiruv*, the use of both courtyards is restricted'. For in whose favor could this tenant of the inner courtyard renounce his right? Should he renounce it in favor of the tenants of the inner courtyard? But their *eiruv*, surely, is not with them! Should he renounce his right in favor of the

⁸ This is because the residents of the inner *chatzer* cannot relinquish their rights to other members of the inner *chatzer*, because the *eiruv* was placed in the outer *chatzer*, and if the inner *chatzer* would disassociate them from the outer *chatzer*, the inner *chatzer* would be left without an *eiruv*. This would leave the inner *chatzer* restricted. If the resident of the inner *chatzer* would relinquish his rights to both *chatzeiros*, this would not work according to Shmuel who maintains that there is no relinquishing of rights from one *chatzer* to another. If a resident of the outer *chatzer* forgot to join in the *eiruv*, it is ineffective to relinquish his rights to the other residents of the outer *chatzer*, because the inner *chatzer* restricts them. He cannot relinquish his rights to both *chatzeiros*, because Shmuel taught that there is no relinquishing of rights from one *chatzer* to another.

⁹ This is so even if the one who forgot to join in the *eiruv* relinquishes his rights. If he relinquishes his rights to the other residents of the inner *chatzer*, the outer *chatzer* still restricts them, because the two *chatzeiros* are joined together by one

tenants of the outer courtyard also? Surely no domain may be renounced where two courtyards are involved! As to the tenant of the outer courtyard too in whose favor could he renounce his right? Should he renounce it in favor of the tenants of the outer courtyard? There would still remain the tenants of the inner courtyard who would impose the restrictions upon them! Should he renounce it in favor of the tenants of the inner courtyard also? Surely no domain may be renounced where two courtyards are involved! 'If they deposited their *eiruv* in the inner courtyard and one tenant of the inner courtyard forgot to participate in the *eiruv*, the use of both courtyards is restricted'. For in whose favor could this tenant of the inner courtyard renounce his right? Should he renounce it in favor of the tenants of the inner courtyard? There would still remain the tenants of the outer courtyard who would impose restrictions upon them! Should he renounce his right in favor of the tenants of the outer courtyard also? Surely no domain may be renounced where two courtyards are involved! 'If, however, a tenant of the outer courtyard forgot to participate in the *eiruv* the use of the inner courtyard is' certainly 'unrestricted', since its tenants might close its door and so enjoy its use, 'while that of the outer one is restricted'.

Said Rav Huna son of Rabbi Yehoshua to Rava: But why should the use of both courtyards be restricted where a tenant of the inner one forgot to join in the *eiruv*? Couldn't the tenant

eiruv and they are considered to be one *chatzer*. The resident of the inner *chatzer* who forgot to make an *eiruv* relinquishes his rights to the residents of the inner *eiruv*, but the residents of the outer *chatzer* restrict the inner *chatzer*. If he will relinquish his rights to the residents of the outer *chatzer*, Shmuel has already taught that there is no relinquishing of rights from one *chatzer* to another.

¹⁰ The inner *chatzer* is permitted because the residents of the inner *chatzer* can tell the residents of the outer *chatzer* that they only agreed to be joined in an *eiruv* if it was to their benefit. Now that a resident of the outer *chatzer* forgot to join in the *eiruv* and the merging with the outer *chatzer* is to the detriment of the inner *chatzer*, the residents of the outer *chatzer* can relinquish their rights to the residents of the inner *chatzer*. This follows the opinion of Rabbi Akiva later, (75b) whereas according to the Chachamim, there is no requirement to relinquish rights. Rather, the residents of the inner *chatzer* can dissolve the merger of their *eiruv* because it impinges on the use of their own *chatzer*.



of the inner courtyard renounce his right in favor of the tenants of the inner courtyard and the tenants of the outer one could then come and enjoy unrestricted use together with them? — In agreement with whose view, [retorted Rava, is this objection raised? Apparently] in agreement with that of Rabbi Eliezer who ruled that ‘it is not necessary to renounce one’s right in favor of every individual tenant’, but I spoke in accordance with the view of the Rabbis who ruled that ‘it is necessary to renounce one’s right in favor of every individual tenant’. (66b – 67a)

INSIGHTS TO THE DAF

Making an Eiruv on Shabbos

The *Gemora* states that Rabbi Yochanan ruled that a Jew could lease the rights of a gentile on Shabbos. The Nehardeans found an apparent contradiction to Rabbi Yochanan’s ruling, where Rabbi Yochanan said that the rules of leasing are similar to the rules of joining in an *eiruv*. The Nehardeans assumed that the similarity referred to is that just like one must join in an *eiruv* prior to Shabbos, so too one must lease the rights of a gentile prior to Shabbos.

The *Gemora* answered that Rabbi Yochanan’s comparing the rules of leasing to the rules of joining in an *eiruv* was said with regard to three leniencies.

Why must one make an *eiruv* prior to Shabbos? We must examine the function of an *eiruvei chatzeiros*. Is an *eiruvei chatzeiros* an acquisition, where all the residents of the *chatzer* relinquish their rights in the *chatzer* and they are all considered to be residing in one house? If *eiruvei chatzeiros* is akin to making an acquisition, one is forbidden to make an acquisition on Shabbos.

Tosfos, however, writes that one can lease the rights of a gentile on Shabbos as this is not categorized as a business transaction. Leasing the rights of a gentile is only to permit carrying in the *chatzer*, and certainly the function of an *eiruvei chatzeiros* is to permit carrying in a *chatzer*. Why,

then, would it be forbidden to make an *eiruvei chatzeiros* on Shabbos if there is no transaction taking place?

Perhaps we can say that regarding leasing the rights from a gentile, the residence of a gentile is not considered a residence, and leasing his rights is just to make clear what is occurring. With regard to *eiruvei chatzeiros*, however, if there is no *eiruv*, then the residents restrict each other from carrying, and this would fall under the category of a transaction.

It is also possible to say that we have learned that one acquires residence at the onset of Shabbos. The same idea could be applied to *eiruvei chatzeiros*, as one cannot make an *eiruv* on Shabbos since the time for the *eiruv* to begin functioning is at the onset of Shabbos.

This rationale is difficult, however, because if one can lease the rights of a gentile on Shabbos, and a Jew can even relinquish his rights on Shabbos, then apparently not everything begins at the onset of Shabbos.

In Teshuvos Chacham Tzvi¹¹ and in other works of the Acharonim who follow the opinion of Rabbeinu Yehonasan, the prohibition of making an *eiruvei chatzeiros* on Shabbos is because it is akin to an acquisition.

Rashi¹² writes that one cannot make an *eiruvei chatzeiros* when Yom Tov falls on Friday because it appears that he is rectifying something, which is forbidden on Yom Tov.

¹¹ Siman 6

¹² Beitzah 16b s.v. lo Eruvei chatzeiros