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Rabbah son of Rav Huna stated: This¹ was learnt only in respect of drawing water, but pouring it down is forbidden.² Rav Shizbi demurred: Wherein does this case essentially differ from that of a trough?³ — In the latter case the waters are absorbed [in the ground]⁴ while in the former they are not absorbed.⁵ Others say that Rabbah son of Rav Huna explained: Do not say: It is only permitted to draw water but that it is forbidden to pour water down; since in fact it is also permitted to pour it down. Isn't this, Rav Shizbi asked, obvious, seeing that it is essentially identical with the case of the trough? — It might have been assumed that they are unlike,⁶ for whereas in the latter case the waters are absorbed [in the ground], they are not absorbed in the former case, hence we were informed [that the same law is applicable to both cases]. (88a)

So also when two balconies were situated in positions one higher than etc. Rav Huna citing Rav explained: This was

learnt only [in the case where the lower balcony] was near [to the upper one],⁷ but if it was removed from it, [the use of] the upper one is permitted, since Rav follows his principle, having laid down that no man imposes restrictions upon another through the air.⁸ (88a)

Rabbah stated in the name of Rabbi Chiya, and Rav Yosef stated in the name of Rabbi Oshaya: A robbery is valid in respect of a Shabbos domain⁹ and a ruin reverts to its owner.¹⁰ But isn't this self-contradictory? You said: 'A robbery is valid in respect of the Shabbos domain', from which it is clear that possession is acquired; and then you say: 'and a ruin reverts to its owner, from which it is evident that no possession is acquired? — It is this that was meant: The law [of the return] of a robbery is valid in respect of a Shabbos domain, since¹¹ a ruin reverts to its owner. Said Rabbah: We raised an objection against this ruling of ours: So also when two balconies were situated in

¹ That the Rabbis recognized the validity of a suspended partition on a balcony.

² Because the water is carried down the stream beyond the partitions.

³ In a courtyard that was smaller than four amos though, when the trough is full, the water runs over into the public domain.

⁴ As the tenants intend the water to remain in the private domain it is permitted to pour into the trough which, like the courtyard, is a private domain even though some of the water may ultimately flow over.

⁵ So that any drop of water poured into it would inevitably flow beyond the partitions.

⁶ And that in consequence it should be forbidden to pour water down the hole of the balcony into the stretch of water below.

⁷ Sc. the horizontal distance between them was less than four tefachim.

⁸ And, since the tenants of the lower balcony are unable to reach the hole in the upper one except through the intervening air space by thrusting their bucket into it, they cannot impose restrictions on the tenants of the upper one.

⁹ This is now assumed to mean that a person is permitted to seize for the Shabbos another person's ruin which, being near his house and neglected by its owner, he uses on weekdays, and that this seizure is valid so that even on the Shabbos he may move objects from his house into it and vice versa as if it had been his own property.

¹⁰ Sc. the restrictions of the Shabbos cause the ruin, though during the week it is deserted by its owner and used by a neighbor, to revert to the full possession of the former so that the latter may move no objects from, or into it.

¹¹ Lit., 'how? Because'. [The text is not clear: Rabbeinu Chananel reads: The law of robbery (whereby the robber acquires

positions one higher than the other etc. Now, if it is maintained that 'the law [of the return] of a robbery is valid in respect of a Shabbos domain' why should restrictions be imposed?¹² — Rav Sheishes replied: We are here dealing with a case, for instance, where they made the partition jointly.¹³ But if so¹⁴ the same law should also apply where a partition was made on the lower balcony?¹⁵ Since they made a partition for the lower one they have thereby intimated to the tenants of the upper one that they had no desire to be associated with them.¹⁶ (88a)

MISHNAH: If [the area of] a courtyard was less than four amos no water may be poured out into it on the Shabbos unless it was provided with a trough holding two se'ah from its edge downwards, irrespective of whether it¹⁷ was without or within,¹⁸ except that if it was without it is necessary to cover it¹⁹ and if it was within it is not necessary to cover it. Rabbi Eliezer ben Yaakov ruled: If four amos of a drain²⁰ were covered over in the public domain it is permitted to pour water into it on the

possession of the robbed object) applies on Shabbos. How is this? If the robber took the robbery into his own domain; but if he left it in the ruin of the robbed person, the ruin reverts it to its owner.]

¹² Upon the tenants of the upper balcony, seeing that on the Shabbos, as in the case of the ruin just mentioned, it reverts to them alone despite its use by the tenants of the lower balcony during weekdays.

¹³ So that the tenants of the lower balcony, unlike the man who uses a ruin upon which he has no claim whatever, are well entitled to the use of the upper one.

¹⁴ That the tenants of the lower balcony have a share in the upper one, and that this is the reason why they impose restrictions upon the tenants of the latter.

¹⁵ Since in either case the share they have in the upper one should cause them to impose the same restrictions.

¹⁶ Lit., 'that I am not pleased (to be associated) with you'.

¹⁷ The trough.

¹⁸ The courtyard.

¹⁹ With boards, so as to impart to it the status of a free domain.

²⁰ Which carries water from a courtyard into the public domain.

²¹ Because all the water that is likely to be poured into it during the Shabbos would, as a rule, be absorbed before it reached the public domain. If some of the water should, for any reason whatever, run into the public domain no transgression would be committed since the tenants' intention was that it shall be

Shabbos,²¹ but the Sages ruled: Even where a roof or a courtyard was a hundred amos in area,²² no water may be poured directly over the mouth of the drain, but it may be poured upon the roof from which the water flows into the drain. The courtyard and the portico may be combined to make up the prescribed four amos. So also in the case of two upper stories opposite each other²³ the tenants of one of which made a trough and those of the other did not, those who made the trough are permitted to pour down their water, whereas those who did not make any trough are forbidden. (88a)

GEMARA: What is the reason?²⁴ — Rabbah replied: Because a man is in the habit of using up two se'ah of water daily, and in an area of four amos²⁵ he is inclined to spray it²⁶ but in one that is less than four amos²⁷ he merely pours it out. Hence it is only if he made a trough²⁸ that he is permitted to pour out the water but not otherwise.²⁹ Rabbi Zeira replied: In an area of four amos the water may be absorbed; but one that is less than four amos they

absorbed before it reached the public domain and no transgression is involved where one's intention was not fulfilled. Particularly is this the case here where Biblically it is permitted to pour water into a private domain though one's intention was that it should ultimately find its way into the public domain.

²² A stretch sufficient to absorb all the water that can possibly be poured out in one day.

²³ Between which there was a courtyard whose area was less than four amos.

²⁴ That if the area of a courtyard was less than four amos no water may be poured out into it and, inferentially, that if the area was four amos or bigger water may be poured out into it.

²⁵ During the summer, the season to which this Mishnah refers, when courtyards are dusty.

²⁶ As his intention is not to have the water running into the public domain but to spray on the floor of the courtyard it is permitted to pour it out in that courtyard though sometimes it might eventually find its way into the public domain.

²⁷ Which is hardly worth the trouble of spraying.

²⁸ In which the water may be accumulated and gradually absorbed in the ground.

²⁹ Lit., 'if not he is forbidden', since the water would be running almost directly into the public domain and his desire to pour it out would be fulfilled. Were this to be permitted people might form the erroneous conclusion that it is also permitted to throw anything directly from a private into a public domain.

cannot be absorbed.³⁰ What is the practical difference between them? — Abaye replied: The practical difference between them is a courtyard that was long and narrow.³¹

We learned: The courtyard and the portico may be combined to make up the prescribed four amos. According to Rabbi Zeira this is quite acceptable,³² but, according to Rabbah, doesn't a difficulty arise?³³ — Rabbi Zeira, on the lines of Rabbah's view, explained: This refers to a portico that ran along all the courtyard.³⁴

Come and hear: If the area of a courtyard was less than four amos by four amos no water may be poured out into it on the Shabbos. Now according to Rabbah this ruling is quite satisfactory,³⁵ but, according to Rabbi Zeira, doesn't a difficulty arise?³⁶ — Rabbi Zeira can answer you: This ruling represents the view of the Rabbis,³⁷ whereas our Mishnah is that of Rabbi Eliezer ben Yaakov. What, however, was it that urged Rabbi Zeira to attribute our Mishnah to Rabbi Eliezer ben Yaakov? — Rava replied: Our Mishnah presented to him a difficulty: What was the object of stating: If the area of a courtyard was less than four amos³⁸ seeing that it could have been stated: 'If the area of a courtyard was less than four amos by four

amos'?³⁹ Consequently,⁴⁰ he concluded it must represent the view of Rabbi Eliezer ben Yaakov. This is conclusive. But since a succeeding clause represents the view of Rabbi Eliezer ben Yaakov how could the first clause also represent his view? — The entire Mishnah represents the view of Rabbi Eliezer ben Yaakov, but some words are wanting in it, the correct reading being as follows: If [the area of] a courtyard was less than four amos no water may be poured out into it on the Shabbos' but if the area is four amos water may be poured into it because Rabbi Eliezer ben Yaakov ruled: If four amos of a drain were covered over in the public domain it is permitted to pour water into it on the Shabbos. (88a – 88b)

Rabbi Eliezer ben Yaakov ruled: If four amos of a drain were covered over. Our Mishnah cannot represent the opinion of Chananya,⁴¹ for it was taught: Chananya ruled: Even if [the area of] a roof was a hundred amos no water may be poured upon it since a roof is not made to absorb water but to cause it to run down.

One taught: This⁴² applies only to the hot season, but during the rainy season a person may pour his water again and again without any limit. What is the reason? — Rava

³⁰ And, since the water inevitably flows into the public domain, his desire is fulfilled.

³¹ Eight amos by two, for instance. According to Rabbi Zeira's explanation it is permitted to pour water into it, since an area of $8 \times 2 = 4 \times 4$, and the water would be absorbed in the courtyard itself before any of it reached the public domain. According to Rabbah, however, this is forbidden, since a narrow courtyard is an unsuitable place for spraying.

³² Since the floor of the portico, whatever its position, would add to the area of absorption.

³³ As the portico does not widen the courtyard the latter remains unsuitable for spraying, why then should it be permitted to pour water in it?

³⁴ If, for instance, the courtyard area was four amos by two the portico also was four by two, its length being parallel to that of the courtyard and thus extending the area of the latter to four amos by four.

³⁵ Because a courtyard that was narrower than four amos, though longer, is unsuitable for spraying.

³⁶ Since the capacity of a given area for absorption is not affected by the relative lengths of the sides.

³⁷ Sc. the Sages who forbade the pouring of water into a drain even when the courtyard was a hundred amos in area, thus rejecting the principle of capacity for absorption and upholding only that of suitability for spraying.

³⁸ Which implies that if the total area was four amos by four it matters little whether each side was four amos long or whether the courtyard was long and narrow, two of its sides being shorter, and two longer than four amos.

³⁹ An expression which would have indicated that even if only one of the sides of a courtyard is less than four amos in length (though the total area was four amos by four) no water may be poured out into it.

⁴⁰ Since the former expression was used, from which it follows that it is not the shape but the actual area that matters or, in other words, that the determining factor is not suitability for spraying but capacity for absorption.

⁴¹ Since he permitted this only in a courtyard but not on a roof. The roofs spoken of were flat and had drains in the form of gutters into which rain water flowed and water was poured.

⁴² That no water may be poured out in a small courtyard unless a trough was provided for the purpose.

replied: A person is quite satisfied that the water should be absorbed on the spot.⁴³ Said Abaye to him: Is there not the case of waste water with the absorption of which on the spot a person is quite satisfied and yet it was ruled: No water may be poured? — What, the other replied, is it that provision should be made against in that case? If it be suggested: Against the man's objection to the spoiling of his courtyard,⁴⁴ surely, [it may be retorted,] it is in any case spoilt; and if against the possibility of the assumption that So-and-so's gutter was spouting water,⁴⁵ all gutters, as a rule, spout water.⁴⁶

Rav Nachman ruled: In the rainy season, if a trough is capable of holding two se'ah it is permitted to pour two se'ah of water into it, and if it can hold one se'ah only one se'ah of water is permitted; in the hot season, however, if the trough can hold two se'ah one is allowed two se'ah but if it can hold one se'ah one is not allowed to pour into it any water at all. Why should it not be allowed in the hot season also to pour into it a se'ah if it can hold a se'ah? — A preventive measure has been enacted against the possibility of one's pouring two se'ah into it. If so, why shouldn't a preventive measure be enacted for the rainy season also? What is it that provision should be made against in that case? If it be suggested: Against the man's objection to the spoiling of his courtyard, surely, [it could be retorted,] it is in any case spoilt; if against the assumption that So-and-so's gutter spouts water all gutters, as a rule, spout water. Hence, said Abaye, even a kor, even two kor are permitted. (88b)

⁴³ Within the courtyard. As the place is in any case waterlogged and untidy he does not mind the addition of his waste water also.

⁴⁴ Sc. that the pouring out of the water should be forbidden as a preventive measure against the possibility of his desire to dispatch it without delay into the public domain for the reason given.

⁴⁵ On the Shabbos: in consequence of which people might allow themselves to carry also directly from a private into a public domain.

So also in the case of two upper stories opposite each other. Rava ruled: Even though they prepared a joint eiruv. What, asked Abaye, is the reason? If it be suggested: On account of the large quantity of the water, was it not taught, [it may be objected,] 'The same law applies to a trough, a damaged vessel, a pond or a tub, viz. that, though they were filled with water on the Shabbos eve, waste water may be poured into them on the Shabbos?⁴⁷ Rather, if the statement was at all made it must have been made in the following terms: Rava ruled: This was learnt only in the case where no joint eiruv was prepared, but if a joint eiruv was prepared they are permitted. But why are they not permitted where they did not prepare a joint eiruv? — RavAshi replied: As a preventive measure against the possibility of their carrying out water in utensils from their houses to the trough. (88b – 89a)

WE SHALL RETURN TO YOU, KEITZAD MISHTATFIN

⁴⁶ On a rainy day. People would assume the water to be rather the accumulated rain water than the lesser quantity of waste water. In the case of a drain in the dry season, however, people observing the flow from a private into a public domain and knowing full well that it was the result of human action, might well come to the conclusion that the carrying of objects from the one domain into the other is also permitted. Hence the preventive measure.

⁴⁷ Though it overflows into the public domain. Why then should the increased volume of water prevent the use of the trough by the tenants of both upper stories?