"נָתְנוּ לוֹ רְשׁוּתָן – הוּא מוּתָּר וְהֵן אֲסוּרִין". וְנֵהֱוֵי אִינְהוּ לְגַבֵּיהּ כִּי אוֹרְחִין! חַד לְגַבֵּי חֲמִשָּׁה – הָוֵי אוֹרֵחַ, חֲמִשָּׁה לְגַבֵּי חַד – לָא הָוֵי אוֹרֵחַ.

We learned in the mishna: **If** the other residents **gave** away **their rights** in the courtyard **to him, he is permitted** to carry from his house into the courtyard, **but they are prohibited** from doing so. The Gemara asks: **But let them,** the ones who renounced their rights in the courtyard, **be** regarded as **guests of his,** which would enable them to carry as well. The Gemara answers: **One vis-à-vis five is** considered **a guest,** whereas **five** or more **vis-à-vis one are not** ordinarily viewed as **guests.**

שְׁמַע מִינָּהּ: מְבַטְּלִין וְחוֹזְרִין וּמְבַטְּלִין!

The Gemara attempts to draw another inference from the wording of the mishna: Shall we not **learn from this,** from the order of events in the mishna, that **one may renounce** his rights in favor of another when he needs it, **and then** the latter **may renounce** his rights in favor of the former when he needs it? For the mishna first describes a case in which the one who forgot to establish an *eiruv* renounces his rights in favor of the others, at which stage they may use the courtyard, and then afterward recounts that the other residents renounce their rights in favor of the one who forgot to establish an *eiruv,* leaving it permitted for him and prohibited for them.

הָכִי קָאָמַר: נָתְנוּ לוֹ רְשׁוּתָן מֵעִיקָּרָא, הוּא מוּתָּר וְהֵן אֲסוּרִין.

The Gemara answers: No proof can be brought from here, for **this is** what the mishna **is saying: If they gave away their rights** in the courtyard **to him at the outset,** it is **permitted** for **him and** it is **prohibited for them.** In other words, this is not a continuation of the previous clause, but a separate case.

הָיוּ שְׁנַיִם – אוֹסְרִין זֶה עַל זֶה. פְּשִׁיטָא! לָא צְרִיכָא דַּהֲדַר חַד מִינַּיְיהוּ וּבָטֵיל לֵיהּ לְחַבְרֵיהּ. מַהוּ דְּתֵימָא: לִישְׁתְּרִי, קָא מַשְׁמַע לָן: דְּכֵיוָן דִּבְעִידָּנָא דְּבָטֵיל לָא הֲוָה לֵיהּ שַׁרְיוּתָא בְּהַאי חָצֵר.

We learned in the mishna: **If two** residents of a courtyard forgot to establish an *eiruv,* and the others renounced their rights in the courtyard in their favor, **they** render **one another prohibited** from carrying. The Gemara raises a difficulty: Isn't this **obvious?** What novel teaching is stated here? The Gemara answers: **No,** this ruling **is necessary** in a case where the others renounced their rights in the courtyard in favor of the pair, and **one of them then renounced** his rights **in favor of the other. Lest you say let it** now **be permitted** for him to carry, the mishna **teaches us** that **since at the time of his renunciation** it was **not permitted**[N] for him to carry **in that courtyard,** he may not renounce his rights either. Therefore, his renunciation is ineffective, and they are both prohibited from carrying.[H]

"שֶׁאֶחָד נוֹתֵן רְשׁוּת". הָא תּוּ לָמָּה לִי? אִי נוֹתֵן – תָּנֵינָא, אִי נוֹטֵל – תָּנֵינָא!

The mishna explains: **For one** resident **may give away** and receive **rights** in a domain. The Gemara poses a question: **Why** do **I** need **this further** explanation? This ruling can be deduced from the previous cases: **If** the mishna wishes to teach the *halakha* with regard to **giving** away rights, **we** already **learned** that one person may give away his rights in a domain, and **if** it wishes to teach the *halakha* with regard to **receiving** rights, **we** already **learned** it as well, so why the repetition?

סֵיפָא אִיצְטְרִיכָא לֵיהּ: שְׁנַיִם נוֹתְנִין רְשׁוּת. הָא נַמִי פְּשִׁיטָא! מַהוּ דְּתֵימָא:

The Gemara answers: **He needed** it due to the ruling in **the latter clause,** which includes the novel teaching that **two** residents **may give away rights** in a domain. The Gemara again wonders: But **this** *halakha* **as well,** that even multiple residents may give away their rights in a domain, is **obvious.** The Gemara answers: This was stated **lest you say:**

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לִיגְזוֹר דִּילְמָא אָתֵי לְבַטּוֹלֵי לְהוּ – קָא מַשְׁמַע לָן.

Let us issue a decree that two residents may not give away their rights in a domain, **lest** people **come to renounce** their rights **in favor** of two residents as well. People might assume that just as two may give away their rights to one, so too may one give away his rights to two. The mishna therefore **teaches us** that we do not issue such a decree.

NOTES

It was not permitted – לָא הָוֵה לֵיהּ שַׁרְיוּתָא: As explained in the Gemara, even if the residents of the courtyard specified that they are renouncing their rights in favor of one person on the condition that he renounce his rights to the other, this is invalid. The rationale is that since the person failed to establish an *eiruv*, it is as though he is completely absent and is living in a different place entirely, so that he has no rights in the courtyard it whatsoever.

HALAKHA

Renunciation in favor of two – בִּיטּוּל לְרַבִּים: Rights in a domain may not be renounced in favor of two people who did not establish an *eiruv*, as although two may renounce their rights, they may not acquire rights. Even if the residents of the courtyard told one of the two to acquire their rights provided that he transfer them to the other person, this is ineffective (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 380:4).

״וְאֵין נוֹטְלִין רְשׁוּת״. לָמָּה לִי? לָא צְרִיכָא, אַף עַל גַּב דְּאָמְרִי לֵיהּ ״קְנִי עַל מְנָת לְהַקְנוֹת״.

We learned in the mishna: **But** two **may not receive rights** in a domain. The Gemara poses a question: **Why do I** need to say this? Isn't it superfluous? The Gemara answers: **No,** it is **necessary** to teach that rights may not be acquired **even if** the other residents of the courtyard **say to** one of the two who did not establish an *eiruv*: **Acquire** our rights in the courtyard **on condition that you transfer** them in turn to your friend, the other one who did not establish an *eiruv*. The mishna teaches that he does not become their agent and cannot transfer the rights to the other person, as he himself cannot receive such rights under these circumstances.

בָּעָא מִינֵּיהּ אַבַּיֵי מֵרַבָּה: חֲמִשָּׁה שֶׁשְּׁרוּיִין בְּחָצֵר אַחַת, וְשָׁכַח אֶחָד מֵהֶן וְלֹא עֵירֵב, כְּשֶׁהוּא מְבַטֵּל רְשׁוּתוֹ, צָרִיךְ לְבַטֵּל לְכָל אֶחָד וְאֶחָד, אוֹ לֹא? אָמַר לֵיהּ: צָרִיךְ לְבַטֵּל לְכָל אֶחָד וְאֶחָד.

Abaye raised a dilemma before Rabba: If **five** people **live in the same courtyard, and one of them forgot to join in an *eiruv*, when he renounces his rights** in the courtyard, **must he renounce** them **in favor of each and every one** of the others **or not?** Rabba **said to him: He must renounce** his rights **in favor of each and every one.**[H]

אֵיתִיבֵיהּ: אֶחָד שֶׁלֹּא עֵירֵב – נוֹתֵן רְשׁוּתוֹ לְאֶחָד שֶׁעֵירֵב, שְׁנַיִם שֶׁעֵירְבוּ – נוֹתְנִין רְשׁוּתָן לְאֶחָד שֶׁלֹּא עֵירֵב, וּשְׁנַיִם שֶׁלֹּא עֵירְבוּ – נוֹתְנִין רְשׁוּתָן לִשְׁנַיִם שֶׁעֵירְבוּ, אוֹ לְאֶחָד שֶׁלֹּא עֵירֵב.

Abaye **raised an objection** from the following *baraita*: **One** resident of a courtyard **who did not establish an *eiruv* may renounce his rights** in the courtyard **in favor of one who did establish an *eiruv*. Two** courtyard residents **who established an *eiruv* may** also **renounce their rights** in the courtyard **in favor of one who did not establish an *eiruv*. And** similarly, **two** courtyard residents **who did not establish an *eiruv* may renounce their rights** in the courtyard **in favor of two** residents **who did establish an *eiruv* or in favor of one** resident **who did not establish an *eiruv*.**

אֲבָל לֹא אֶחָד שֶׁעֵירֵב נוֹתֵן רְשׁוּתוֹ לְאֶחָד שֶׁלֹּא עֵירֵב. וְאֵין שְׁנַיִם שֶׁעֵירְבוּ נוֹתְנִין רְשׁוּתָן לִשְׁנַיִם שֶׁלֹּא עֵירְבוּ, וְאֵין שְׁנַיִם שֶׁלֹּא עֵירְבוּ נוֹתְנִין רְשׁוּתָן לִשְׁנַיִם שֶׁלֹּא עֵירְבוּ.

But one courtyard resident **who did establish an *eiruv* may not renounce his rights** in the courtyard **in favor of one** resident **who did not establish an *eiruv*, nor may two** residents **who established an *eiruv* renounce their rights** in the courtyard **in favor of two** other residents **who did not establish an *eiruv*, nor may two** residents **who did not establish an *eiruv* renounce their rights** in the courtyard **in favor of two** residents **who did not establish an *eiruv*.**[H]

קָתָנֵי מִיהַת רֵישָׁא: ״אֶחָד שֶׁלֹּא עֵירֵב נוֹתֵן רְשׁוּתוֹ לְאֶחָד שֶׁעֵירֵב״. הֵיכִי דָּמֵי? אִי דְּלֵיכָּא אַחֲרִינָא בַּהֲדֵיהּ – בַּהֲדֵי מַאן עֵירֵב?

In any event the first clause is teaching: One resident of a courtyard **who did not establish an *eiruv* may renounce his rights** in the courtyard **in favor of one who did establish an *eiruv*. What are the circumstances** surrounding this case? **If there is no other** resident **with him,** i.e., if there were only two people living in the courtyard, **with whom did he,** the other resident, **establish an *eiruv*?** He could not have established an *eiruv* on his own.

אֶלָּא פְּשִׁיטָא – דְּאִיכָּא אַחֲרִינָא בַּהֲדֵיהּ. וְקָתָנֵי: לְאֶחָד שֶׁעֵירֵב!

Rather, it is **obvious that there is another** resident **with him,** apart from the one who failed to establish an *eiruv*, **and** yet **it states:** He may renounce his rights in the courtyard **in favor of one who did establish an *eiruv*,** which implies that it is enough for him to renounce his rights in favor of one of the residents. He does not have to renounce his rights in favor of all of them.

וְרַבָּה – הָכָא בְּמַאי עָסְקִינַן – דַּהֲוָה וּמִית.

The Gemara now asks: **And** how does **Rabba** understand this teaching? The Gemara answers: Rabba can say as follows: **With what are we dealing here?** This is a special case, **where there was** another person in the courtyard with whom he established the *eiruv*, **but** that person **died**[N] in the meantime, leaving only one who established an *eiruv*, to whom the one who did not establish an *eiruv* may renounce his rights.

אִי דַּהֲוָה וּמִית – אֵימָא סֵיפָא: אֲבָל אֵין אֶחָד שֶׁעֵירֵב נוֹתֵן רְשׁוּתוֹ לְאֶחָד שֶׁלֹּא עֵירֵב. וְאִי דַּהֲוָה וּמִית – אַמַּאי לָא?

The Gemara raises a difficulty: **If** it indeed refers to a case **where there was** another person, **but he died, say** an explanation for **the latter clause** of the *baraita*: **But one** courtyard resident **who did establish an *eiruv* may not renounce his rights in favor of one who did not establish an *eiruv*. Now if** it refers to a case **where there was** at first another person **but he died, why** may the one courtyard resident **not** renounce his rights in the courtyard? Now there is only one other person present in the courtyard.

HALAKHA

He must renounce his rights in favor of each and every one – צָרִיךְ לְבַטֵּל לְכָל אֶחָד וְאֶחָד: When one renounces his rights in a certain domain to a group of people, he must do so in respect to each and every one of them by saying: My rights are renounced to you and you (Rambam). Other authorities rule that it is enough if he says: My rights are renounced to all of you (*Tur*), in accordance with the opinion of Rabba (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 380:1).

An individual and a group with regard to renunciation – יָחִיד וְרַבִּים בְּבִיטּוּל: A group of people who established an *eiruv* can renounce their rights in favor of another group who also established an *eiruv*, but neither they nor an individual may do so in favor of a group that did not establish an *eiruv*. If the group renounces its rights in favor of an individual, or if an individual does so for another individual, the renouncing party is entirely prohibited from carrying in the courtyard and is not considered in this regard like a guest, who is subordinate to his host and may carry wherever the latter may (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 380:4).

NOTES

Where there was another person, but that person died – דַּהֲוָה וּמִית: Because of the difficulties presented by the *halakhot* of inheritance, i.e., even if the resident dies, his heir could be considered a resident of the courtyard, as discussed later in the Gemara, Rashi felt it necessary to explain that this case in the Gemara is one with special circumstances: The Sages are discussing members of a convoy who camped and surrounded their camp with a fence. As these members do not possess an actual residence that can be inherited, but are merely staying in this place, there is no issue of the inheritor being a factor in this ruling. The Ritva offers an alternative explanation, which suggests that the dead person is a convert who has no heirs. Consequently, the difficulty does not arise. Most commentaries (*Tosafot*; Rashba; Rosh; Ritva) agree that an heir does not render carrying prohibited in a place where he is not currently residing. Therefore, although there was an heir, he is located elsewhere and does not impose any restrictions on the residents.

אֶלָּא פְּשִׁיטָא דְּאִיתֵיהּ, וּמִדְּסֵיפָא אִיתֵיהּ, רֵישָׁא נַמִי אִיתֵיהּ!

Rather, it is **obvious that there is** another person present, with whom the *eiruv* was established. **And since the latter clause** of the *baraita* deals with a case **where there is** another person present, **the first clause** of the *baraita* must also be dealing with a case **where there is** another person present.

מִידֵּי אִירְיָא?! הָא כִּדְאִיתָא וְהָא כִּדְאִיתָא!

The Gemara rejects this proof: **Is this** necessarily **the designation in both** cases? Must the two clauses necessarily be dealing with the same case? **This** case **as it is, and this** case **as it is,** i.e., each clause deals with a unique set of circumstances, which need not accord with each other.

תֵּדַע, דְּקָתָנֵי סֵיפָא דְּרֵישָׁא: וּשְׁנַיִם שֶׁלֹּא עֵירְבוּ נוֹתְנִין רְשׁוּתָן לִשְׁנַיִם שֶׁעֵירְבוּ: לִשְׁנַיִם – אִין, לְאֶחָד – לָא.

The Gemara adds: **Know** that this *baraita* does not only deal with one state of affairs, **for the last** part **of the first clause teaches: And two** courtyard residents **who did not establish an *eiruv* may renounce their rights** in the courtyard **in favor of two** residents **who did establish an *eiruv*.** It can be inferred from this that **in favor of two** residents, **yes,** they may renounce their rights, but **in favor of one, no,** they may not. This clearly indicates that they must renounce their rights in the courtyard in favor of both of them.

וְאַבַּיֵי אָמַר: מַאי ״לִשְׁנַיִם״ – לְאֶחָד מִשְּׁנַיִם. אִי הָכִי לֵיתְנֵי: לְאֶחָד שֶׁעֵירֵב, אוֹ לְאֶחָד שֶׁלֹּא עֵירֵב! קַשְׁיָא.

And Abaye can **say: What** is the meaning of **in favor of two? In favor of one of the two,** for this is as effective as renouncing their rights in favor of both of them. The Gemara raises a difficulty: **If so, let it teach** that the two courtyard residents who did not establish an *eiruv* may renounce their rights in the courtyard **in favor of one** resident **who established an *eiruv* or in favor of one** resident **who did not establish an *eiruv*,** from which one would understand that there are two present, for otherwise there could be no *eiruv*. The Gemara concludes: This is indeed **difficult** according to Abaye's opinion, although it does not completely refute his opinion.

״אֶחָד שֶׁלֹּא עֵירֵב נוֹתֵן רְשׁוּתוֹ לְאֶחָד שֶׁעֵירֵב״. לְאַבַּיֵי – דְּאִיתֵיהּ, וְקָא מַשְׁמַע לָן: דְּאֵין צָרִיךְ לְבַטֵּל רְשׁוּת לְכָל אֶחָד וְאֶחָד. לְרַבָּה – דַּהֲוָה וּמֵית, וְלָא גָּזְרוּ זִיקְנִין דְּאִיתֵיהּ.

The Gemara now explains the need for each clause of the *baraita*. The *baraita* opens: **One** resident of a courtyard **who did not establish an *eiruv* may renounce his rights in favor of one who did establish an *eiruv*. According to Abaye,** this refers **to** a case **where there is** another person present, **and it teaches us** that **he need not renounce his rights** in the courtyard **in favor of each and every one** of the others. **According to Rabba,** this refers to a case **where there was** another person in the courtyard, with whom he established the *eiruv*, **but** that person **died** in the meantime, **and** the novel teaching is that the Sages **did not issue a decree** due to the concern that **sometimes** that other person **is** still **present.**

״וּשְׁנַיִם שֶׁעֵירְבוּ נוֹתְנִין רְשׁוּתָן לְאֶחָד שֶׁלֹּא עֵירֵב״. פְּשִׁיטָא! מַהוּ דְּתֵימָא: כֵּיוָן דְּלֹא עֵירֵב – לִיקַנְסֵיהּ, קָא מַשְׁמַע לָן.

The *baraita* continues:[N] **Two** courtyard residents **who established an *eiruv* may renounce their rights** in the courtyard **in favor of one who did not establish an *eiruv*.** The Gemara poses a question: Isn't this **obvious?** What new *halakha* is being taught here? The Gemara answers: **Lest you say** that **since he did not establish an *eiruv*, we should penalize him** by insisting that he renounce his rights in their favor and not the reverse, therefore the *baraita* **teaches us** that it is permitted even for the ones who established an *eiruv* to renounce their rights in his favor.

״וּשְׁנַיִם שֶׁלֹּא עֵירְבוּ נוֹתְנִין רְשׁוּתָן לִשְׁנַיִם שֶׁעֵירְבוּ״. לְרַבָּה – תָּנָא סֵיפָא לְגַלּוּיֵי רֵישָׁא, לְאַבַּיֵי – שְׁנַיִם שֶׁלֹּא עֵירְבוּ אִיצְטְרִיכָא לֵיהּ. סָלְקָא דַּעְתָּךְ אָמִינָא: לִגְזוֹר דִּלְמָא אָתֵי לְבַטּוֹלֵי לְהוּ, קָא מַשְׁמַע לָן.

It was further taught in the *baraita*: **And** similarly, **two** courtyard residents **who did not establish an *eiruv* may renounce their rights** in the courtyard **in favor of two** residents **who established an *eiruv*. According to Rabba,** the *baraita* **taught the latter clause to shed light on the first clause.**[N] As the latter clause teaches that one must renounce rights to every resident in the courtyard, the first clause must refer to the case where the additional resident passed away, for otherwise, he would not be able to renounce his rights to only one of the residents of the courtyard. **According to Abaye,** it was **necessary** for the mishna to teach the *halakha* in the case of **two who did not establish an *eiruv*.** For **it could enter your mind to say** that **we should issue a decree** determining that the two residents who did not establish an *eiruv* may not renounce their rights in favor of the two residents who established an *eiruv*, **lest** the two who established an *eiruv* **come to renounce** their rights **in favor of** the two who did not. The *baraita*, therefore, **teaches us** that we do not issue such a decree.

NOTES

The language of the *baraita* – לְשׁוֹן הַבְּרַיְיתָא: It is clear that this *baraita* is repetitive and not every repetition has halakhic implications. However, since *tanna'im*, when they repeat themselves, usually introduce certain stylistic adjustments, when such adjustments are absent, the Gemara inquires as to the reason for the repetition (Maharsha).

Taught the latter clause to shed light on the first clause – תָּנָא סֵיפָא לְגַלּוּיֵי רֵישָׁא: This expression is utilized with regard to both *mishnayot* and biblical verses. It means that although the phrase in question serves no particular purpose in and of itself, it is necessary in terms of the overall context, for it would otherwise be possible to explain some other statement in a completely different manner. Therefore, this additional section functions to ensure that a different statement is properly understood.

״אוֹ לְאֶחָד שֶׁלֹּא עֵירֵב״. לָמָּה לִי? מַהוּ דְּתֵימָא: הָנֵי מִילֵּי – הֵיכָא דְּמִקְצָתָן עֵירְבוּ וּמִקְצָתָן לֹא עֵירְבוּ, אֲבָל הֵיכָא דְּכוּלָּן לֹא עֵירְבוּ – לֵיקַנְסִינְהוּ כְּדֵי שֶׁלֹּא תִּשְׁתַּכַּח תּוֹרַת עֵירוּב, קָא מַשְׁמַע לָן.

The *baraita* continues: **Or** they may renounce their rights **in favor of one who did not establish an *eiruv*.** The Gemara poses a question: **Why do I** need this addition? The Gemara explains: **Lest you say** that **these** permissive **rulings** with regard to renunciation **apply only** in a case **where some of** the residents **established an *eiruv* and some of them did not establish an *eiruv*. But** in a case **where none of** the residents **established an *eiruv*, we should penalize them** by not allowing renunciation, **so that the** halakhic **category of *eiruv* should not be forgotten** by those who come after them. The *baraita*, therefore, **teaches us** that we are not concerned about this.

״אֲבָל אֵין אֶחָד שֶׁעֵירֵב נוֹתֵן רְשׁוּתוֹ לְאֶחָד שֶׁלֹּא עֵירֵב״. לְאַבַּיֵי – תָּנָא סֵיפָא לְגַלּוּיֵי רֵישָׁא, לְרַבָּה – אֵיידֵי דְּתָנָא רֵישָׁא, תָּנָא נַמִי סֵיפָא.

We further learned in the *baraita*: **But one** courtyard resident **who did establish an *eiruv* may not renounce his rights** in the courtyard **in favor of one who did not establish an *eiruv*. According to Abaye,** the *baraita* **taught the latter clause to shed light on the first clause,** for Abaye proves from here that a person may renounce his rights to one of the two courtyard residents, and need not renounce his rights to both of them. **According to Rabba, since** the *baraita* **taught the first clause** in a certain style, **it also taught the latter clause** in that same style, but no halakhic conclusion can be garnered from here.

״וְאֵין שְׁנַיִם שֶׁעֵירְבוּ נוֹתְנִין רְשׁוּתָן לִשְׁנַיִם שֶׁלֹּא עֵירְבוּ״. הָא, תּוּ לָמָּה לִי? לָא צְרִיכָא, דְּבַטֵּיל לֵיהּ חַד מִינַּיְיהוּ לְחַבְרֵיהּ. מַהוּ דְּתֵימָא: לִשְׁתְּרִי לֵיהּ, קָא מַשְׁמַע לָן, כֵּיוָן דְּבָעִידְנָא דְּבַטֵּיל לָא הָווּ לֵיהּ שַׁרְיוּתָא בְּהָא חָצֵר – לָא.

The *baraita* further states: **Nor may two** residents **who established an *eiruv* renounce their rights** in the courtyard **in favor of two** other residents **who did not establish an *eiruv*.** The Gemara raises a difficulty: **Why do I** need **this further** matter? Isn't this statement superfluous? The Gemara answers: **No,** it is **necessary** for the case **where one of** the two who did not establish an *eiruv* subsequently **renounced** his rights **in favor of his fellow** resident. **Lest you say** that **it should** now **be permitted** to carry, as there is only one person left who has any rights in the courtyard and failed to establish an *eiruv*, therefore it **teaches us** that **since at the time of his renunciation he was not permitted in that courtyard,** he may **not** renounce his rights in it, and therefore carrying is prohibited for both.

״וְאֵין שְׁנַיִם שֶׁלֹּא עֵירְבוּ נוֹתְנִין רְשׁוּתָן לִשְׁנַיִם שֶׁלֹּא עֵירְבוּ״. הָא, תּוּ לָמָּה לִי? לָא צְרִיכָא, דְּאָמְרִי ״קְנֵי עַל מְנָת לְהַקְנוֹת״.

The *baraita* concludes: **Nor may two** residents **who did not establish an *eiruv* renounce their rights** in the courtyard **in favor of two** residents **who did not establish an *eiruv*.** The Gemara poses the question: **Why do I** need **this additional** matter? Isn't it superfluous? The Gemara answers: **No,** it is **necessary** for the case **where** the other courtyard residents **said** to one of the first two who did not establish an *eiruv*: **Acquire** our rights in the courtyard **on condition that you transfer** them in turn to your friend, the other one who did not establish an *eiruv*. They attempted to appoint one of them as an agent to transfer the collective rights to the other. The *baraita* teaches us that this method is ineffective.

בְּעָא מִינֵּיהּ רָבָא מֵרַב נַחְמָן: יוֹרֵשׁ, מַהוּ שֶׁיְּבַטֵּל רְשׁוּת?

Rava raised a dilemma before Rav Naḥman: With regard to **an heir, what is** the *halakha* regarding whether **he** may **renounce rights** in a courtyard? If a person who had forgotten to establish an *eiruv* died on Shabbat, may his heir renounce his rights in his stead?

Perek **VI**
Daf **70** Amud **b**

הֵיכָא דְּאִי בָּעֵי לְעָרוֹבֵי מֵאֶתְמוֹל מָצֵי מְעָרֵב – בְּטוֹלֵי נַמִי מָצֵי מְבַטֵּל. אֲבָל הַאי, כֵּיוָן דְּאִי בָּעֵי לְעָרוֹבֵי מֵאֶתְמוֹל – לָא מָצֵי מְעָרֵב – לָא מָצֵי מְבַטֵּל,

The Gemara explains the two sides of the question: On the one hand, perhaps only in a case **where, if** the person **wanted to establish an *eiruv* on the previous day he could have established an *eiruv*, he can also** renounce his rights on Shabbat. **But this** heir, **since, if he wanted to establish an *eiruv* the previous day he could not have established an *eiruv*,** as he was not then a resident of the courtyard, therefore, today **he cannot renounce** his rights either.

אוֹ דִלְמָא: יוֹרֵשׁ כִּרְעֵיהּ דַּאֲבוּהּ הוּא?

Or perhaps an heir is like **his father's foot,** i.e., he is considered an extension of his father and substitutes for him in all regards, which means that just as his father could have renounced his rights, so can he.[N]

אֲמַר לֵיהּ: אֲנִי אוֹמֵר מְבַטֵּל, וְהָנֵי דְּבֵי שְׁמוּאֵל תָּנוּ: אֵין מְבַטֵּל. אֵיתִיבֵיהּ: זֶה הַכְּלָל, כֹּל שֶׁמּוּתָּר לְמִקְצָת שַׁבָּת – הוּתַּר לְכָל הַשַּׁבָּת, וְכָל שֶׁנֶּאֱסַר לְמִקְצָת שַׁבָּת – נֶאֱסַר לְכָל הַשַּׁבָּת, חוּץ מִמְבַטֵּל רְשׁוּת.

Rav Naḥman **said to him: I** myself **say** that an heir **can** indeed **renounce** rights in a courtyard,[H] **while those** scholars of **the school of Shmuel taught: He cannot renounce** rights in a courtyard. Rava **raised an objection to** Rav Naḥman from the following *baraita*: **This is the principle: Anything that is permitted for part of Shabbat is permitted for all of Shabbat, and anything that is prohibited for part of Shabbat is prohibited for all of Shabbat, apart from one who renounces his rights** in a courtyard, for renunciation can provide an allowance halfway through Shabbat.

״כֹּל שֶׁהוּתַּר לְמִקְצָת שַׁבָּת מוּתָּר לְכָל הַשַּׁבָּת״ – כְּגוֹן עֵירֶב דֶּרֶךְ הַפֶּתַח וְנִסְתַּם הַפֶּתַח, עֵירֶב דֶּרֶךְ חַלּוֹן וְנִסְתַּם חַלּוֹן.

The Gemara now explains each element of the *baraita*: **Anything that is permitted for part of Shabbat is permitted for all of Shabbat. For example,** if **an *eiruv* was established** between two adjacent courtyards that are connected **via an opening** between them, **and** that **opening was closed up** on Shabbat, the *eiruv* is valid. Alternately, if **an *eiruv* was established** between the two courtyards that are connected **via a window** opening from one to the other, **and** that **window was closed up** on Shabbat, the *eiruv* is valid. As carrying from one courtyard to another was permitted at the beginning of Shabbat, it is permitted throughout Shabbat.

״זֶה הַכְּלָל״ – לְאַתּוּיֵי מָבוֹי שֶׁנִּיטְּלוּ קוֹרוֹתָיו אוֹ לְחָיָיו.

The Gemara comments: The words **this is the principle** come **to include** the case of **an alleyway whose** cross **beams or side posts were removed** on Shabbat, teaching that one may nonetheless use the alleyway, as it had been permitted at the outset of Shabbat.

״כֹּל שֶׁנֶּאֱסַר לְמִקְצָת שַׁבָּת – נֶאֱסַר לְכָל הַשַּׁבָּת כּוּלָּהּ״ – כְּגוֹן שְׁנֵי בָּתִּים בִּשְׁנֵי צִידֵי רְשׁוּת הָרַבִּים, וְהִקִּיפוּם גּוֹיִם מִחִיצָה בַּשַּׁבָּת.

The Gemara continues its explanation of the *baraita*: **Anything that is prohibited for part of Shabbat is prohibited for all of Shabbat. For example,** if there were **two houses on two sides of a public domain, which gentiles enclosed with a wall on Shabbat,** the enclosed area remains prohibited. Even though a partition of this kind is considered a proper one with regard to Shabbat domains, it is prohibited to carry objects from either house into the enclosed area, even if the owner of the first house renounces his rights in the area in favor of the owner of the second house, as they could not have established an *eiruv* between them before Shabbat.

״זֶה הַכְּלָל״ לְאַתּוּיֵי מַאי? לְאַתּוּיֵי מֵת גּוֹי בַּשַּׁבָּת.

The Gemara asks: **What** do the words **this is the principle** come **to include** in this part of the *baraita*? The Gemara answers: It comes **to include** the case of **a gentile** resident of the courtyard who **died on Shabbat** without having rented out his domain to a Jew for the purpose of an *eiruv*. In this case, the Jewish neighbors are prohibited from carrying in the courtyard. Because it was prohibited to establish an *eiruv* the previous day, carrying in the courtyard continues to be prohibited on Shabbat, even though the gentile is now deceased.

וְקָתָנֵי ״חוּץ מִמְּבַטֵּל רְשׁוּת״, אִיהוּ – אִין, יוֹרֵשׁ – לָא!

And the *baraita* **teaches: Apart from one who renounces his rights** in a courtyard, which teaches that a person may renounce his rights in a courtyard even on Shabbat, despite the fact that the courtyard was prohibited prior to his renunciation. The Gemara infers: **He** himself, i.e., the original owner, **yes,** he may renounce his rights even on Shabbat, but with regard to his **heir, no,**[N] he may not renounce his rights on Shabbat, which contradicts Rav Naḥman's opinion.

אֵימָא חוּץ מִתּוֹרַת בִּיטּוּל רְשׁוּת.

Rav Naḥman replied: **Say** that the *baraita* must be understood as follows: **Apart from** anyone who falls **into the** halakhic **category of one who renounces his rights** in a domain. In other words, the *baraita* is not referring to a particular person who renounces his rights, but rather to the category of renunciation in general, which includes an heir.

NOTES

Renunciation of rights by an heir – בִּיטּוּל רְשׁוּת יוֹרֵשׁ: This discussion implies that the key issue is the status of the heir. It is possible to view the heir as receiving the domain and rights of the deceased at the time of the latter's death. Consequently, there is a defined break between them, as in a commercial transaction, where the act of acquisition divides the moment of the seller's ownership from that of the buyer. On the other hand, the heir can be viewed as a continuation of and stand-in for the deceased. As such, he already held potential ownership of the deceased's property even before the latter's passing. According to this understanding, the passing of the deceased merely actualizes the heir's rights, for he and the deceased are considered a single legal entity.

He, yes, his heir, no – אִיהוּ אִין, יוֹרֵשׁ לָא: Many versions of the Talmud omit these words. Although Rashi's explanation of the Gemara matches these words, nevertheless, his comments indicate that he too did not have this reading in front of him. See *Tosafot*, who question Rashi's explanation. Rabbeinu Ḥananel teaches the text in a completely different manner: These words are an objection to the opinion of Shmuel, and the conclusions that he deduces from the text are the opposite of Rashi's. However, this interpretation is not without difficulties of its own, as it is unusual for the Gemara to object to both sides of an argument without stating this explicitly (Rashba). One commentary understands the phrase in a manner similar to Rashi: Since the Gemara explains the *baraita* as speaking of a person who passes away, with the phrase: And the gentile died on Shabbat, it suggests that the phrase: Apart from one who renounces his rights, refers only to one who nullifies his own domain, but not to a person who was the heir of one who passed away (Rabbi Eliezer Meir Horowitz).

HALAKHA

An heir can renounce rights in a domain – יוֹרֵשׁ מְבַטֵּל רְשׁוּת: An heir can also renounce rights in a domain, in accordance with the opinion of Rav Naḥman (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 381:6).

אֵיתִיבֵיהּ: אֶחָד מִבְּנֵי חָצֵר שֶׁמֵּת, וְהִנִּיחַ רְשׁוּתוֹ לְאֶחָד מִן הַשּׁוּק, מִבְּעוֹד יוֹם – אוֹסֵר, מִשֶּׁחֲשֵׁיכָה – אֵינוֹ אוֹסֵר.

Rava **raised a** further **objection to** the opinion of Rav Naḥman from a different *baraita*: If **a resident of a courtyard died**[H] **and left his domain,** the use of his house, **to one from the marketplace,** i.e., a non-resident of the courtyard, the following distinction applies: If he died **while it was still day,** i.e., before Shabbat, the one from the marketplace renders carrying **prohibited,** for it is assumed that he received his portion before the onset of Shabbat and should have joined in an *eiruv* with the others. Since he failed to establish an *eiruv* with the other residents of the courtyard, he renders carrying prohibited in the entire courtyard. If, however, he died **after nightfall, he does not** render carrying **prohibited,** for so long as it was permitted to carry for part of Shabbat it remains permitted for the entirety of Shabbat.

וְאֶחָד מִן הַשּׁוּק שֶׁמֵּת וְהִנִּיחַ רְשׁוּתוֹ לְאֶחָד מִבְּנֵי חָצֵר, מִבְּעוֹד יוֹם – אֵינוֹ אוֹסֵר, מִשֶּׁחֲשֵׁיכָה – אוֹסֵר.

And alternatively, if **one from the marketplace** who owned a residence in the courtyard but did not dwell there **died and left his domain to a resident of the courtyard** who does live there and usually joins in an *eiruv* with his neighbors, the following distinction applies: If the person from the marketplace died **while it was still day,** i.e., before Shabbat, the courtyard resident **does not** render carrying **prohibited,** as when he establishes his *eiruv* it includes his new residence as well. If, however, the person from the marketplace died **after nightfall** without having established an *eiruv*, the deceased renders carrying **prohibited.** As this residence was prohibited at the beginning of Shabbat, it can no longer be permitted on that Shabbat.[H]

אַמַּאי אוֹסֵר? נִיבְטֵיל! מַאי ״אוֹסֵר״ נַמִּי דְּקָתָנֵי – עַד שֶׁיְּבַטֵּל.

Rava's question is based on the first case discussed in the *baraita*: According to Rav Naḥman, **why does** the heir render carrying **prohibited** in this case? **Let him renounce** his rights in the courtyard to the other residents, as Rav Naḥman maintains that an heir may renounce rights. Rav Naḥman replied: **What is** the meaning of the word **prohibits that** the *baraita* **teaches** here? It means he renders carrying prohibited **until he renounces** his rights, i.e., although there is no way of rectifying the situation by means of an *eiruv*, it can be corrected by way of renunciation.

תָּא שְׁמַע: יִשְׂרָאֵל וְגֵר שְׁרוּיִין בְּמְגוּרָה אַחַת, וּמֵת גֵּר מִבְּעוֹד יוֹם,

Come and **hear** a different proof challenging Rav Naḥman's opinion, from the following *baraita*: If **a Jew and a convert were living in a single residency**[N] comprised of several rooms, **and the convert died** childless **while it was still day,** such a convert has no heirs, and therefore the first to take possession of his property acquires it.

אַף עַל פִּי שֶׁהֶחֱזִיק יִשְׂרָאֵל אַחֵר בִּנְכָסָיו – אוֹסֵר. מִשֶּׁחֲשֵׁיכָה, אַף עַל פִּי שֶׁלֹּא הֶחֱזִיק יִשְׂרָאֵל אַחֵר – אֵינוֹ אוֹסֵר.

In such a case, **even though a different Jew took possession of** the convert's **property,** the one who acquires it renders carrying **prohibited.** If, however, he died **after nightfall, even though a different Jew did not take possession of** his property, **it,** i.e., carrying, **is not prohibited,** for carrying had already been permitted on that Shabbat.

תָּא גּוּפָא קַשְׁיָא! אָמַרְתְּ ״מִבְּעוֹד יוֹם אַף עַל פִּי שֶׁהֶחֱזִיק״, וְלֹא מִיבָּעְיָא כִּי לֹא הֶחֱזִיק?! אַדְרַבָּה, כִּי לֹא הֶחֱזִיק לֹא אָסַר!

The Gemara raises a difficulty: The *baraita* **itself is difficult. You** first **said:** If the convert died **while it was still day, even though a different Jew took possession of** his property, the latter renders carrying prohibited, which implies that **it is not necessary** to say so **where** another Jew **did not take possession of** the property, for in such a case it is certainly prohibited. But this is incorrect. **On the contrary,** in a case **where** a different person **did not take possession of** the property, **it is** certainly **not prohibited,** for in such a case the convert's property is ownerless and there is nobody to render carrying in the courtyard prohibited.

אָמַר רַב פַּפָּא: אֵיטָמָא, ״אַף עַל פִּי שֶׁלֹּא הֶחֱזִיק״. וְהָא ״אַף עַל פִּי שֶׁהֶחֱזִיק״ קָתָנֵי!

Rav Pappa said: Say that the *baraita* should read as follows: **Even though** a different Jew **did not take possession of** it. The Gemara raises a difficulty: How can it be corrected in this manner? **But doesn't it teach: Even though he took possession of** it?

HALAKHA

If a resident of a courtyard died – אֶחָד מִבְּנֵי חָצֵר שֶׁמֵּת: With regard to one of the residents of a courtyard who died before he could establish an *eiruv*, and he left his portion to someone who was not a resident of the courtyard, the following distinctions apply: If he died before Shabbat and his heir arrived on Shabbat, the heir renders carrying prohibited. However, if he died on Shabbat after having established an *eiruv*, the heir may not impose any restrictions on the residents. If he had not established an *eiruv*, the heir imposes restrictions only when he arrives (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 371:4).

One who inherited part of a courtyard – יוֹרֵשׁ חֵלֶק בְּחָצֵר: In the case of a person who owned a residence in a courtyard but did not dwell there, and who left his property to a resident of that courtyard, the *halakha* is as follows: If he died before Shabbat, the heir does not render carrying prohibited, for the *eiruv* that he established before Shabbat includes the portion he has inherited as well. However, if the person died after nightfall, then the heir does render carrying prohibited, because his *eiruv* is ineffective in such a case (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 371:3).

NOTES

A Jew and a convert…in a single residency – יִשְׂרָאֵל וְגֵר...בִּמְגוּרָה אַחַת: The early commentaries point out that this case clearly refers to a legal acquisition of ownership [*ḥazaka*] rather than an inheritance (see Ritva). According to the Ra'avad, who maintains that an heir has rights because it is considered as though the deceased renounced his rights in his favor before Shabbat, one who acquires property that was ownerless is similarly like one who acquires from a person who renounced his rights to others.

Perek **VI**
Daf **71** Amud **a**