



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Eiruv Daf Pey Ches

V'CHEIN SHTEI GEZUZTIRAOS ZU...

- **R' Huna in the name of Rav** said, the lower balcony only prohibits the upper balcony if they are within 4 tefachim to each other.
 - This follows **Rav's** shita that one cannot prohibit an area if his use of that area is "use by air".
- **Rabbah** said in the name of **R' Chiya**, and **R' Yosef** said in the name of **R' Oshaya**, there is "theft of property on Shabbos" (if someone always uses the ruin next to his property, and he doesn't own that ruin, on Shabbos it is considered his and not the true owner's, so it can therefore be said that he has "stolen" the ruin), but a ruin "returns to its owner" for Shabbos (even if someone else uses the ruin all week, on Shabbos it is considered as belonging to the true owner and he must join the eiruv of the chatzer).
 - **Q:** This seems contradictory!? **A:** When they said that there is "theft of property", they meant that it is treated as theft and therefore must be "returned" to the rightful owner for Shabbos (i.e. it is considered his for eiruv considerations).
 - **Q: Rabbah** asked, our Mishna says that the lower balcony prohibits the use of the upper balcony. Based on what was said above, since they are using it without consent, they should not be able to prohibit the upper balcony's use!? **A: R' Sheishes** said, the Mishna is discussing where the lower balcony contributed to the building of the walls around the upper balcony and therefore were "partners" and had full rights to use it.
 - **Q:** If so, why when the lower balcony has its own walls does the Mishna seem to say that they do not prohibit the upper balcony anymore!? **A:** When they build their own walls, it is as if they are saying that they no longer want to be partners in the upper balcony.

MISHNA

- One may not dispose of water on Shabbos into a chatzer that is smaller than 4x4 amos, unless he makes a cesspool in it that can hold two se'ah of water. The cesspool can be made within or without of the chatzer, but if it is made outside of the chatzer, it must be covered (so that it retains its status as a makom petur).
- **R' Eliezer ben Yaakov** says, if one has a gutter system that is covered for the first 4 amos that it enters the reshus harabim (which is about the length of distance the water of 2 se'ah would need to get absorbed into the ground), one may spill water into it on Shabbos. The **Chachomim** say, even if the gutter system was 100 amos long in the reshus hayachid before it enters the reshus harabim, one may not pour water directly into it. Rather, one may pour the water onto a roof which will lead into the gutter.
- A chatzer can combine with a roofed structure that has no walls (and is adjacent to that chatzer) to reach the 4 amah requirement.
- 2 upper stories that are opposite each other and are over a chatzer that is less than 4 amos, if one of the upper stories made a cesspool and the other did not, the one who made the cesspool may dispose of water into the chatzer, and the other may not.

GEMARA

- **Q:** Why may one pour water into a chatzer of 4x4 amos even without a cesspool? **A: Rabbah** said, a person generally uses 2 se'ah of water every day. Our Mishna is discussing the summer months. In those months, a person wants to have that amount of water in that size chatzer (which is a useful size) to keep the dust from flying around. Therefore, any water that leaves the chatzer is done unintentionally. If the chatzer is less than 4x4, it is not useful and therefore he

intends to send the water out of the chatzer, because he has no use for it in the chatzer. **A2: R' Zeira** said, in 16 square amos, 2 se'ah of water can get absorbed. Therefore, he does not intend to pour it out into the reshus harabim. Anything less cannot absorb that amount of water.

- **Q:** What is the difference between these reasons? **A:** If a chatzer is 16 square amos, but not a square. According to **Rabbah**, since the chatzer is not useful, one does not intend to keep the water in the chatzer. According to **R' Zeira**, the area is big enough to absorb that water, so it would be permitted.
- **Q:** Our Mishna says that a chatzer can combine with a roofed structure that has no walls (and is adjacent to that chatzer) to reach the 4 amah requirement. Presumably this is not discussing a case where they combine to form a perfect square, and yet they combine to allow disposal of water. This is a proof to **R' Zeira**!? **A:** The Mishna is discussing a case where the two combine to form a perfect square.
- **Q:** A Braisa says, if a chatzer is not 4x4 amos, one may not dispose of water into it. This Braisa is a proof to **Rabbah**! **A:** **R' Zeira** will say that this Braisa follows the shita of the **Rabanan** from our Mishna who say that one may not pour water into a gutter of any length. They clearly do not consider the rate of absorption as a significant reason in this area. Therefore, the Braisa which doesn't seem to care about the rate of absorption must be following them. Our Mishna, however, which **R' Zeira** says does focus on absorption, must follow **R' Eliezer ben Yaakov**.
 - **Q:** Why did he feel the need to interpret our Mishna like **R' Eliezer ben Yaakov**, rather than like the **Rabanan**? **A:** **Rava** said, the Mishna talks about a chatzer that is "less than 4 (sq) amos". If the Mishna was following the **Rabanan**, it should have said the chatzer was less than 4x4.

R' ELIEZER BEN YAAKOV OMER BIV HAKAMOR

- Our Mishna does not follow **Chananya**, who says in a Braisa that one may not even pour water on Shabbos onto a roof that will flow into a gutter system (because the roofs do not absorb anything).
- A Braisa says, the only time a cesspool is required is during the summer months, when one rather not have his chatzer soaked with water (and rather that the water exit to the reshus harabim). However, in the winter months, when one doesn't care if his chatzer is all wet, a cesspool is not even needed.
 - **Q:** **Abaye** asked, with regard to disposing in a gutter, where one always would be fine with the water being absorbed in the gutter, and yet the Mishna says that water may not be poured directly into it!? **A:** **Rava** answered, with regard to the gutter, if we were to allow it, people who see the water flowing into the reshus harabim may say that it is allowed to dispose of water in this manner. However, in the winter months, when one disposes of water into his chatzer, the chatzer is already not usable, and water is flowing into the reshus harabim from all the rainfall anyway. Therefore we allow it.
 - **R' Nachman** explained the Braisa to mean that in the winter months, if one made a cesspool to hold 2 se'ah, he can dispose of 2 se'ah in the chatzer. If he made a cesspool of 1 se'ah, he can dispose of 1 se'ah. In the summer months, he cannot dispose of anything unless he makes a cesspool of 2 se'ah, at which time he may dispose of a full 2 se'ah.
 - **Q:** Why can't he make a cesspool of 1 se'ah and dispose of that amount in the summer as well? **A:** We are concerned that he may dispose of 2 se'ah there.
 - **Q:** Why don't we have that concern in the winter months? **A:** There is nothing to be concerned with at that time. The chatzer is already ruined and water is already flowing into the reshus harabim from all the rain. Therefore it is allowed.
 - **Abaye** said, therefore, even more than 2 se'ah may be poured into the chatzer during the wintertime.

V'CHEIN SHTEI DYUTAOS ZU K'NEGED ZU

- **Rava** said, even if an eiruv was made between the two, only the party that made the cesspool may dispose of water there.
 - **Q:** **Abaye** asked, why is that so? It can't be because we are afraid for disposal of water beyond capacity of the cesspool, because we have learned that we need not be

concerned for that!? **A:** It must be that **Rava** said, that the Mishna is only discussing where no eiruv was made, but if an eiruv was made, both parties may dispose of water into that chatzer.

- **R' Ashi** explains, if no eiruv was made, we do not allow it because we are afraid that it may lead the party of the other chatzer to carry water to the cesspool to dispose of it there.

HADRAN ALACH PEREK KEITZAD MISHTATFIN!!!