

# תשובה בענין הדסים

## Hadassim Mixups

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# Hadassim Mixups and the Wife's Permission

## Question

I'm staying by my father-in-law for the first days of Yom Tov, and we both put our *hadassim* in the refrigerator. When I arrived at shul I realized that my father-in-law and I had switched *hadassim*, and now my father-in-law is *davening* in a shul a half hour away. Can I now make a *bracha* on my set of *arba minim*, which consists of 3 *minim* of my own and my father-in-law's *hadassim*?

I am a single woman and I usually use my neighbor's set of *arba minim* on the first day of Sukkos. My neighbor is away this year. My other neighbor's husband is out of the house and won't be home for a few hours. Can my neighbor's wife give me the set of *arba minim* for me to use, relying on the fact that she says her husband certainly won't mind?

## Answer

There is a fundamental difference between the mitzvah of shaking the *arba minim* on of the first two days of Sukkos and the rest of the days of Sukkos. On the first two days<sup>1</sup> of Sukkos the *arba minim* must actually belong to the user, whereas the rest of the days of Sukkos it is sufficient that one has permission to use them. It is therefore necessary that the set of *arba minim* be given as a present to the user on the first two days of Sukkos. It is sufficient, however, if they are given as a present on condition that they are returned. This necessity of the *arba minim* belonging to the user applies to each of the four species.

When one's friend gives him the set of *arba minim* to use on the first two days, Shulchan Aruch says that it is assumed that it was given as a present on condition that it is returned<sup>2</sup>. The Shulchan Aruch also says that one can assume that his friend does not mind that he uses his set of *arba minim* without permission in order to perform the mitzvah, because people are happy that others should perform mitzvos with their possessions.<sup>3</sup>

However, the Shulchan Aruch implies that one cannot perform the mitzvah of the first two days of Sukkos with his friend's set of *arba minim* without his friend's consent. The reason for this is

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<sup>1</sup> For those who live in chutz la'aretz; however, for those that live in Eretz Yisroel, only the first day

<sup>2</sup> OC 649:5

<sup>3</sup> OC 649:5

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that although we can assume that someone doesn't mind that another person using his set for the Mitzvah, on the first two days we need more than that - we would require an assumption that his friend is giving it to him as a present, since it must belong to the user in order to perform the mitzvah. There is no such assumption that everyone would be willing to actually give their possessions away to another in order to perform a mitzvah, even if the gift were conditional on the item being returned afterwards.<sup>4</sup>

Regarding performing the mitzvah of tzitzis, too, one cannot perform the mitzvah unless the tzitzis belong to him. Nevertheless, the Shulchan Aruch says that one may use the tallis of his friend without permission and make a beracha for using it, since it is assumed that his friend is happy that his object is being used to perform a mitzvah<sup>5</sup>. Here, the Shulchan Aruch seems to be saying that we can actually make an assumption that his friend would agree to give him the tallis as a present on condition that it is returned for the purpose of him performing a mitzvah. Seemingly, this is a direct contradiction to the Shulchan Aruch in Hilchos Lulav<sup>6</sup>.

The *achronim* advance numerous solutions to this contradiction. Some differentiate between the laws of *tzitzis* and the laws of *arba minim*<sup>7</sup>. Others explain that the Shulchan Aruch in *hilchos tzitzis* does not mean to say that the borrower is actually performing the obligatory mitzvah. (Even though he should say the beracha, he is no different in this respect to a woman who also says a beracha when performing a mitzvah that she is not obligated to do<sup>8</sup>). Others seem to leave the question unanswered<sup>9</sup>.

The Kitzur Shulchan Aruch<sup>10</sup> writes that one may perform the mitzvah of *arba minim* by obtaining the set from the wife of the owner if the owner is the type not to mind. It seems that he adopts the ruling of the Shulchan Aruch regarding tzitzis, that it's possible to make an assumption that one gives rights to another to acquire his set of arba minim (as a present on condition that it is returned) for the purpose of him performing a mitzvah, rather than the opinion of the Shulchan Aruch in Hilchos Lulav. The Mishneh Berura<sup>11</sup> on the other hand writes that one cannot perform the mitzvah on the first two days of Sukkos by obtaining the set from the wife of the owner. Essentially, the Mishneh Berura follows the stricter ruling of the Shulchan Aruch in Hilchos Lulav mentioned above.

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<sup>4</sup> Mishneh Berurah, 649:33 quoting Pri Megadim

<sup>5</sup> OC 14:4

<sup>6</sup> See Terumas Hadeshen which is the source of these halachos in Shulchan Aruch, siman 100 and pesakim siman 159.

<sup>7</sup> Shu"t Tzitz Eliezer vol. 13 :64

<sup>8</sup> Magen Avrohom 14:8. See, however, R' Akiva Eiger there. See also Shu"t Sha'arei Yosher, siman 30.

<sup>9</sup> R' Shlomo Eiger from manuscript printed in Yeshurun vol. 1.

<sup>10</sup> Siman 137:8

<sup>11</sup> 658:8

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### Conclusion

Based on the above, one should not perform the mitzvah on the first two days of Sukkos without the explicit permission of the real owner, even if it's your father-in-law, to use them for the purpose of performing the mitzvah. The same is true for even one of the four species. One also shouldn't even rely on permission from the wife of the owner, on the first two days of Sukkos. If one has no other option, though, one can rely on the opinion of the Kitzur Shulchan Aruch, [but not make beracha].

If one performed the mitzvah using such a set, and subsequently had the opportunity to perform the mitzvah again with a set that belongs to you without question, one should do so but without reciting another beracha.