



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of Moses Kiplalngat Chepkwony (Deceased) (Succession Cause E001 of 2020) [2025] KEHC 7094 (KLR) (29 May 2025) (Judgment)

Neutral citation: [2025] KEHC 7094 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE E001 OF 2020
JK SERGON, J
MAY 29, 2025**

BETWEEN

EVANS KIPKEMOI LANGAT OBJECTOR

AND

WINSTON KIPKOECH LANGAT 1ST ADMINISTRATOR

JANE CHEROTICH LANGAT 2ND ADMINISTRATOR

PHILLIP KIPTOO MUTAI 3RD ADMINISTRATOR

JUDGMENT

1. There are two applications coming up for determination contemporaneously to wit summons for confirmation of grant by the respondents and summons for revocation of grant supported by an affidavit of protest against confirmation of grant by the objector/applicant. The gist of the case by the objector/applicant being that the Grant of Letters of administration as issued by the Honorable Court on 10th of January, 2022 in the names of the above named administrators represents only two of the houses in the estate of the deceased to the exclusion of the third house and that the purported administrators have NOT given a full list of assets and liabilities of the deceased.
2. In the summons for confirmation of grant dated 27th April, 2022 the petitioner is seeking the following orders;
 - (i) That The Grant Of Letters Of Administration Intestate Made To Winston Kipkoech Langat, Jane Cherotich Langat And Phillip Kiptoo Mutai In This Matter On The 10th Of January, 2022 Be Confirmed.
 - (ii) THAT costs of this application be costs in the cause.
3. The summons for confirmation of grant is supported by the grounds on the face of it and the supporting affidavit sworn by the administrators.



4. They aver that a Grant of Letters of Administration of the Estate of the deceased was made to them by this Court on the 10th day of January, 2022, they attached a certified copy of the said Grant dated 10th January, 2022.
5. They aver that the Deceased was survived by several children and beneficiaries and no application for provision for dependants is pending.
6. They aver that the identification and shares of all persons beneficially entitled to the said estate have been ascertained and determined as follows:-
509 Shares In The Sinendet Tea Multipurpose Co- Operative Society To Be Subdivided Equally As Follows:
 - a. Winston Kipkoech Langat - 101.8 shares
 - b. Hellen Chepkirui Kosgei - 203. 6 shares
 - c. Estate of Bartholomew Kimutai Langat - 101.8 acres
 - d. Evans Kipkemoi Langat - 101.8 Acres
Parcel Of Land Comprising In The Original Title Deed No. Kericho/chemagel/1xx9 Measuring Approximately 6 Acres Or Thereabouts Situated In Kimolwet In The Name Of The Deceased Be Subdivided As Follows:
 - a. Winston Kipkoech Langat - 1 acre
 - b. Evans Kipkemoi Langat - 5 acres
7. They aver that Parcel of land comprising in the original Title deed no. KERICHO/LITEIN/7X4 that was measuring approximately 8 acres or thereabouts that was situated in LITEIN in the name of the deceased was partly sold off to third parties (1 acre) and partly distributed by the deceased himself during his lifetime to his two older sons namely the late Bartholomew Kimutai Langat (3.5 acres) and Winston Kipkoech Langat (3.5 acres) in the year 1985.
8. They aver that no estate duty is payable in respect of the estate of the deceased. They attached a consent duly signed by the beneficiaries of the estate indicating their agreement on the distribution of the Estate.
9. The objector filed summons for revocation and an affidavit of protest. In the summons for revocation dated 7th February, 2022 the applicant is seeking for the following orders;
 - (i) THAT the Grant of Letters of administration Intestate issued on 10th day of January 2022 to Winston Kipkoech Langat, Jane Cherotich Langat and Phillip Kiptoo Mutai, all of P.O. Box 401 Litein be revoked
 - (ii) THAT a fresh Grant of Letters of Administration Intestate be issued incorporating the name of Applicant herein, Evans Kipkemoi Langat, as a co-administrator to represent the third house of the deceased.
 - (iii) THAT a declaration be issued that Land Parcel Number Kericho/Litein/1XX1 (now subdivided into Kericho/Litein/1XX4, 1XX5, 1XX3, 1XX9, 1XX0, 1XX3, 1XX4) belonging to the late Moses Chepkwony Kiplangat at the time of his death in 2001 is part and parcel of the assets of the estate of the deceased and as such be included in the assets of the estate for distribution in Form P & A5.



- (iv) THAT the Respondent do pay costs of these proceedings.
10. The summons for revocation is supported by an affidavit of protest filed by Evans Kipkemoi Langat the objector/applicant herein.
 11. He avers that the proposed administrators have caused to be published a Gazette Notice No. 12561 published on 19th November, 2021 identifying themselves as administrators of the Estate of the deceased without consent of the objector/applicant a son of the late Moses Chepkwony Kiplangat (deceased) and a lawful heir in the estate and that the third house is not represented and therefore may not exercise a voice in the distribution of the estate. He avers that pursuant to the publication of the gazette notice a Grant of Letters of administration was issued by the Honorable Court on 10/1/2021 to the exclusion of the third house.
 12. He avers that the proposed administrators have NOT given a full list of assets and liabilities of the deceased, choosing to leave out the land in Litein, which does not show good faith on their part. He avers that the late Moses Kiplangat Chepkwony (deceased) possessed Land Parcel No. Kericho/Litein/1XX1, originally owned by their grandfather, the late Solomon Arap Chebole but which land has been excluded from the hotchpotch of assets of the estate identified for confirmation and distribution to the estate beneficiaries. He avers that the deceased had neither sold the land, subdivided nor allocated it to anyone, and unless by reasons of irregularities, unlawfulness or fraud, the said piece of land still belongs to the Estate of the late Moses Kiplangat Chepkwony.
 13. He avers that the estate of the late Moses Kiplangat Chepkowony (and before him, their grandfather, the late Solomon Arap Chebole) was never involved in any process either to allocate, subdivide, transfer or sell any piece of land in the title Kericho/Litein/1XX1, measuring about 9 acres, which has been subdivided to create parcels of land- Kericho/Litein/1XX4, 1XX5, 1XX3, 1XX9, 1XX0, 1XX3 and 1XX4, he attached the copies of the relevant Green card and mutation history of the said parcel of land. He maintained that these pieces of land should be part and parcel of the Estate of the late Moses Kiplangat Chepkwony but the proposed administrators have for unknown reasons chosen to omit it in the list of assets of the estate
 14. He avers that he was apprehensive that the proposed administrators of the estate may be proceeding to disinherit him, or table for administration much fewer parcels of land constituting the estate of the deceased, whereas, the land KERICHO/CHEMAGEL/1XX9 where he and his children live is being proposed for distribution yet his father owned more parcels of land more than those listed in the summons for confirmation of grant.
 15. He therefore urged this court to uphold his objection to the confirmation of the grant herein and a rectification of the same.
 16. Winston Kipkoech Langat the 1st administrator and eldest son of the deceased filed a replying affidavit in respect to the affidavit of protest.
 17. He avers that his late father owned two parcels of land namely Title No. Kericho/Litein/7X4 and Title No. Kericho/ Chemagel/1XX9.
 18. He avers that on the 28th of August, 2021 whilst at the Chiefs office at Kimolwet in Bureti, the objector was invited to sign the succession petition as a proposed administrator of the estate of the deceased, but he declined to do so, thereby forcing them to proceed without him. He further avers that instead of participating in the succession process which he was now fully aware of, the objector/applicant herein instead decided to file parallel legal suits in the ELC Registry in Kericho being ELC No. 22 of 2020 and ELC No. E011 of 2021 touching on the suit properties both of which were being heard



together with this instant succession suit and that their advocates on record informed the court of the concurrent proceedings and applied for a stay of the ELC proceedings pending the finalization of the instant succession suit, which orders were granted.

19. He avers that there were several family meetings convened by the deceased including the year 2016 alluded to by the objector in which the deceased reminded all of his children of the distribution of his estate which he had undertaken in the year 1985. In each of the meetings, he encouraged them to extract titles whilst he was still alive and that in each meeting, the deceased also stated that the 1st administrator would be given 1 acre of land in Kimolwet being Title No. Kericho/Chemagel/1XX9 as he had not obtained a full portion in Litein.
20. He avers that the original land in Litein has historically been family land that was initially held by their grandfather the late Solomon Chebole as Title No. Kericho/Litein/84 and that he had 3 sons being; his deceased father Moses Kiplangat Chepkwony, Isaac Chepkwony and Joshua Chepkwony.
21. He avers that their late grandfather distributed the Litein Land Title No. Kericho/Litein/84 to two of his sons being; Moses Kiplangat Chepkwony (deceased) and Joshua Chepkwony who is still alive, whilst the third son Isaac Chepkwony was bequeathed family land in Turbo in Nandi County.
22. He avers that the deceased herein, Moses Kiplangat Chepkwony, extracted the title for his portion of land being Title No. Kericho/Litein/7X4 in the year 1981 and attached a copy of the said title deed.
23. He avers that in the year 1985, the deceased herein called a family meeting and distributed all of his property amongst his children as follows:
 - a. Title No. Kericho/Litein/7X4 was distributed amongst himself and late brother Bartholomew Langat in equal portions of 4 acres each. As a result, the deceased subdivided title No. Kericho/Litein/7X4 into 2 portions being Title No. Kericho/Litein/888 and Title No. Kericho/Litein/889. In 1989, the deceased pursuant to the said distribution then transferred Title No. Kericho/Litein/889 to both him and his late brother Batholomew Kiplangat Chepkwony to hold in equal portions of 4 acres each and then told them to proceed to extract our respective titles. He avers that he sold his portion of 4 acres to one Josiah Kiptanui arap Kirui through his deceased father and the title was passed by his father to the purchaser, moved away and settled in Bomet leaving only his late brother Batholomew Kiplangat Chepkwony holding his share of land in Litein.
 - b. The deceased herein retained an acre of land being Title No. Kericho/Litein/888 which he then sold to various 3 parties to meet his financial needs. The 1st administrators attached copies of some of the sale agreement. He maintained that all properties in the estate of the deceased herein Moses Kiplangat Chepkwony have been disclosed fully to this court alongside full disclosure of all transactions undertaken by the deceased himself during his lifetime and that the Objector/Applicant Evans Kipkemoi Langat is the one that has sold off portions of the deceased's land in Kimolwet being Kericho/Chemagel/1XX9.
24. The court directed that the protest proceed via viva voce evidence.
25. Pw. 1 the objector stated that he had recorded an affidavit of protest and witness statement and would rely on the same as his evidence in chief. On Cross Examination, he stated that he was left out when they were sharing the estate. He stated that he was summoned by the area chief and that he did not refuse to attend the meeting. He stated that he had signed documents in relation to the estate of the deceased. He stated that he did not file a case in the environment and land court, he confirmed that he had previously filed a summons for revocation of grant which were dismissed. He stated that the parcel of land comprising the original Title deed No. KERICHOLITEIN/7X4 was subdivided into



several portions and Winston Langat was given a portion of the land. He stated that he has been living on the parcel of land comprising in the original title deed no. KERICHO/CHEMAGEL/1XX9 measuring approximately 6 acres or thereabouts situated in Kimolwet. On further cross examination at a different date, Pw. 1 confirmed that he had previously filed a case in the environment and land court, but could not recall the same previously. He maintained that he wanted the land in Kimolwet and Litein shared equally among the beneficiaries of the deceased. He maintained that his father distributed his property in his lifetime. Pw. 1 stated that Winston and Bartholomew were settled in Litein, however, they were now claiming a portion of the land located in Kimolwet. Pw.1 confirmed that he had not been given possession of original title deed no. KERICHO/CHEMAGEL/1XX9 measuring approximately 6 acres or thereabouts situated in Kimolwet. On reexamination, Pw. 1 stated that he was not aware that the deceased had distributed his property prior to his demise. He stated that when he filed the environment and land court cause he was directed to file a succession cause. He stated that the succession cause was subsequently filed and that he was not notified of the same. He stated that if the deceased had sold off part of the land he will not contest the same. He stated that he was not aware that Winston and Bartholomew obtained title deeds in respect to the parcels of land in question.

26. Pw. 2 a retired police officer stated that he executed a witness statement and would adopt the same as his evidence-in-chief. He stated that he does not recall the deceased distributing his land. On cross examination, Pw. 2 stated that he is privy to the contents of a green card indicating that the deceased, who was his grandfather, had subdivided the land in Litein. He stated that whereas he was privy to the sale agreements signed by the deceased, he suspected that the deceased had been forced to sign the sale agreements.
27. At the close of the Objectors case, the petitioners availed four (4) witnesses in support of their case.
28. Dw. 1 stated that he executed a witness statement and would adopt the same as his evidence-in-chief. He stated that the deceased had land in Kimolwet and Litein. He stated that the deceased had distributed his property prior to his demise as follows; Winston and Bartholomew in Litein whereas Evans was given land in Kimolwet and therefore Evans cannot claim land in Litein. On cross examination, Dw. 1 reiterated that the deceased had distributed his land among his sons prior to his demise and that he was present when the deceased distributed his land among his sons.
29. Dw. 2 stated that he executed a witness statement and would adopt the same as his evidence-in-chief and has a bundle of documents DExh. 1- 19 and report on land ownership DExh. 20. He stated that he and his brother Bartholomew were gifted 4 acres of land in Litein by the deceased during his lifetime whereas Evans the objector remained in Kimolwet. He stated that the property constituting the estate of the deceased, is still in the name of the deceased. He stated that he was one of administrators of the estate of the deceased and that they had agreed on a schedule of distribution of the estate of the deceased, however, the objector had declined to sign the necessary documents. He reiterated that the deceased had subdivided and subsequently distributed the land inter vivos and sold off portions of his property in his lifetime and that he was privy to the same. He therefore urged this court to distribute the land as per the proposed schedule of distribution attached to the summons for confirmation of grant. On cross examination Dw. 2 maintained that the deceased who was their father had distributed his land during his lifetime. He stated that he and the co administrator(s) were appointed as such and given letters of administration when they filed the succession cause in respect to the estate of the deceased and that he was privy to the fact that Evans had objected to the summons for confirmation of grant. He reiterated that the deceased had distributed his property prior to his demise and that the objector was not given a share of the land located in Litein and that therefore only shares in Sinendet were left for distribution. He confirmed that they had two sisters Hellen and Linah, however, Linah had predeceased their father. He stated that he had visited the parcel of land in Kimolwet and found that



third parties had put up permanent structures and that it is evident that the objector had sold a portion of the land in Kimolwet to third parties. He stated that he had called for family meetings both in Litein and Kimolwet, however, the objector did not attend.

30. Dw. 3 stated that she executed a witness statement and would adopt the same as her evidence-in-chief and has a bundle of documents DExh. 1- 19 and report on land ownership DExh. 20 she stated that she was a daughter to the deceased and that the deceased who was her father had property in Litein and Kimolwet. She stated that the deceased distributed his property and sold off a portion of the property in his lifetime and therefore what was pending distribution in respect to the estate of the deceased, are shares in Sinendet Multi-Purpose Investment and that the same have been deliberated upon at length by her brothers and that she had inherited some shares from her deceased father. She therefore maintained that in the prevailing circumstances, this court ought to uphold the proposed mode of distribution in the summons for confirmation of grant. On cross examination, she stated that the family held meetings and elected administrators of the deceased's estate and that the administration in respect to the deceased estate was ongoing. She stated that she was not privy to whether the children who survived her deceased sister were included in the instant succession cause. She stated that Winston and Bartholomew were given land by their deceased father in Litein whereas the objector remained and occupied Kimolwet. She stated that whereas the administrators of the estate of the deceased had deliberated on the distribution of the land in Kimolwet, they had not attempted to evict the objector. She stated that she was not interested in inheriting a share of the deceased's land. On reexamination she reiterated that she was not interested in a share of the deceased's estate. She confirmed that the objector was summoned to attend family meetings to deliberate on the administration of the deceased's estate and opted not to attend the meetings.
31. Dw. 4 a daughter in law to the deceased, stated that she executed a witness statement and would adopt the same as her evidence-in-chief. She stated that the deceased had two parcels of land one in Litein and the other in Kimolwet and that the titles to the parcels of land were in the name of the deceased. She stated that the land in Litein was approximately 9 acres and that the land was subdivided and transferred as follows; 4 acres were given to Winston, 4 acres given to Bartholomew and 1 acre remained which was subdivided and sold off by the deceased and that the respective purchasers put up rentals. She stated that the family held meetings and that the shares of the deceased at Sinendet were distributed among all beneficiaries of the deceased and that they did not distribute the land parcels belonging to the deceased as the deceased had distributed the land inter vivos. On cross examination, Dw. 4 stated that the succession cause was filed in order to have the estate of the deceased administered. She stated that the family of the deceased held several meetings to agree on the administrators of the estate of the deceased, the objector did not attend these meetings and he declined to be administrator of the deceased's estate. She stated that the family held meetings to discuss distribution of the deceased's estate, where they upheld the deceased's wishes as he had distributed his land inter vivos and discussed distribution of the Sinendet shares and the daughters of the deceased got larger shares than the sons of the deceased because they did not get land. On reexamination, she reiterated that the objector was included in the succession proceedings, however, he declined to sign the requisite forms.
32. The court directed the parties to file written submissions, the objector complied and this court therefore considered the submissions.
33. The objector complied and filed submissions and reiterated the grant of letters of administration were ripe for revocation under section 76 of the *Law of Succession Act* as the Objector, a biological son of the deceased was deliberately and unlawfully left out of the administration process of his own father's Estate as the instant grant was procured in secrecy and misrepresentation. The objector faulted the administrators who moved to obtain the grant in the estate of the deceased solely by themselves without



- the involvement of the entire family of the deceased and failed to include all the property of the deceased for distribution.
34. The objector contended that the suggested mode of distribution in the summons for confirmation of grant is without any justification; is neither equal nor fair and that the mode of distribution left out the Estate of Linner Chumo, a daughter of the deceased herein who left behind children who have legitimate interests in the Estate.
 35. The objector contested that claim in the summons of confirmation of grant of one (1) acre of land in Kericho/Kimolwet/1XX9 passing to Winston Lagat, 1st Respondent, is arbitrary as the eldest sons of the deceased, Winston Lagat and Bartholomew Lagat had their inheritance in Litein and further that if indeed the deceased had distributed his Estate when he was still alive, and wished for the Objector to live Kericho/Chemagel/1XX9, as advanced by the 1st, 2nd and 3rd Respondents, they can not purport to re-open it for distribution as proposed.
 36. I have considered the application, responses and submissions and I find that the issue (s) for determination are (a) whether to revoke the grant of letters of administration intestate issued by this court on 10/1/2022 and a fresh grant issued to include the objector as an administrator, (b) whether the assets constituting the estate of the deceased had been tabled for distribution and (c) the mode of distribution to be adopted in respect to the estate of the deceased.
 37. On the issue as to whether to revoke the grant of letters of administration issued by this court and a fresh grant issued to include the objector as a co-administrator, this court has considered the arguments by the respective parties, it is the administrator's case, that the objector did not attend family meetings to discuss the distribution of the deceased's estate and that the objector had on previous occasions declined to be administrator of the deceased's estate. It is the objector's case, that he is a biological son of the deceased and he was deliberately and unlawfully left out of the administration process of his own father's estate as the instant grant was procured in secrecy and misrepresentation. Having considered the respective cases of parties on this issue, this court finds that the objector has not set out a strong and cogent case for revocation, he has not proven that the proceedings to obtain the grant were defective in substance and it is clear to this court that instead of participating in the succession process which he was fully aware of, the objector/applicant herein instead decided to file parallel legal suits in the ELC Registry in Kericho being ELC No. 22 of 2020 and ELC No. E011 of 2021 touching on properties constituting the estate of the deceased, the ELC court proceeded to stay these matters pending the outcome of this succession cause. This court finds that the revocation of the letters of administration will not meet the ends of justice and in the event it is clear that the interests of the objector/applicant in Kericho/ Chemagel/1XX9 herein have been captured in the proposed mode of distribution in the affidavit in support for confirmation of grant.
 38. On the issue as to whether the assets constituting the estate of the deceased had been tabled for distribution, this court has considered the arguments by both parties, the administrators maintained that deceased owned two parcels of land namely Title No. Kericho/Litein/7X4 and Title No. Kericho/ Chemagel/1XX9 whereas the objector contended that the late Moses Kiplangat Chepkony (deceased) possessed Land Parcel No. Kericho/Litein/1XX1, originally owned by their grandfather, the late Solomon Arap Chebole but which land has been excluded from the hotchpotch of assets of the estate identified for confirmation and distribution to the estate beneficiaries. This court has considered the respective cases by the parties. It is the finding of this court that the deceased owned two parcels of land namely Title No. Kericho/Litein/7X4 and Title No. Kericho/ Chemagel/1XX9 and that Land Parcel No. Kericho/Litein/1XX1 does not constitute the estate of the deceased. The administrator highlighted that the original land in Litein belonging to Solomon Arap Chebole their late grandfather was Kericho/Litein/84 and he distributed the same to his two sons being; Moses



Kiplangat Chepkwony (the deceased herein) and Joshua Chepkwony who is still alive and further that Moses Kiplangat Chepkwony, extracted the title for his portion of land being Title No. Kericho/Litein/7X4 in the year 1981 and he attached a copy the said title deed. The administrators' assertion is further supported by a report on land ownership and distribution in the matter of Moses Kiplangat Chepkwony (deceased) filed pursuant to the directions of this court issued on 21st April, 2024. It is therefore the finding of this court that the assets constituting the estate of the deceased had been tabled for distribution in the summons for confirmation of grant.

39. On the issue as to whether the mode of distribution of the estate of the deceased, this court has considered the respective submissions by the parties. It is the administrators case that in the deceased had sold off an acre of Kericho/Litein/7X4 to third parties who had constructed rentals and distributed the remaining portion between Winston and Bartholomew in equal portions whereas the objector was bequeathed with Kericho/Chemagel/1XX9 in Kimolwet in its entirety and has been in occupation of the said parcel to date. The objector does not controvert this, rather, he contends the notion that free property remained in Kericho/Chemagel/1XX9 for consideration of distribution in the current succession proceedings. He is adamant that if Kericho/Chemagel/1XX9 to be re-distributed, this can only happen if ALL the distributed portions of the Estate in Litein and Kimolwet are re-opened and allocated to the beneficiaries in equal proportions. This court has considered the viva voce evidence by the parties and finds that the deceased had indeed distributed his land and settled the beneficiaries herein and that the beneficiaries had been in occupation of their respective parcels in the life time of the deceased as per his wishes and therefore any attempts to redistribute the same would not be fair and just. This court therefore finds that the mode of distribution propounded in the summons for confirmation of grant is fair and just in the circumstances save for the claim by Winston Kipkoech Langat for an acre of Kericho/Chemagel/1XX9 in Kimolwet which the objector/ applicant herein has been in exclusive occupation, the court finds that this claim is not supported by cogent evidence that it was the intention of the deceased that he should hive off an acre of the land bequeathed to Evans Kipkemoi Langat the objector/applicant herein.
40. This Court finds that the land parcel Kericho/Litein/7X4 was distributed inter vivos to Winston Kipkoech Langat, Bartholomew Kimutai Langat and the purchasers which this Court has taken into consideration and therefore it no longer form part of the deceased's Estate.
41. The upshot is that it is the finding of the Court that the Objector/Applicant had not proven that the proceedings to obtain the grant were defective to warrant the revocation of grant.
42. It is also clear that the proposed administrators had given a full list of the assets and liabilities of the deceased estate.
43. This court finds that the affidavit of protest filed by the objector/applicant to be without merit and the same is hereby dismissed.
44. In the end, the summons for confirmation dated 11th October, 2024, for the estate of Moses Kiplangat Chepkwony, is found to be meritorious, it is hereby allowed and the estate of the deceased should be distributed as follows:-
 - (i) Kericho/Chemagel/1XX9 measuring 6 acres in Kimolwet to be given to Evans Kipkemoi Langat
 - (ii) Shares in Sinendet Tea Multipurpose Co - cooperative Society to be subdivided as follows: Winston Kipkoech Langat - 101.8 shares, Hellen Chepkirui Kosgei - 203. 6 shares, Estate of Bartholomew Kimutai Langat - 101.8 shares, Evans Kipkemoi Langat - 101.8 shares

DELIVERED, SIGNED AND DATED AT KERICHO THIS 29TH



DAY OF MAY, 2025

J.K. SERGON

JUDGE

In the Presence of:-

C/Assistant – Rutoh

Kimeto for the Administrators

Otieno for the Objector

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