



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 16 February 2022 which reads as follows:*

**“G.R. No. 243044 (*Jojit Ralutin y Espiritu\* v. People of the Philippines*).** – This is a petition for review on *certiorari*<sup>1</sup> seeking to reverse and set aside the Decision<sup>2</sup> dated May 31, 2018 and Resolution<sup>3</sup> dated October 24, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39931. The assailed rulings of the CA affirmed the Judgment<sup>4</sup> dated March 12, 2017 of the Regional Trial Court (RTC) of [REDACTED], Branch 4 (Family Court), in Criminal Case No. 13246.

**The Antecedent Facts**

An Information dated October 26, 2009 was filed charging petitioner Jojit Ralutin y Espiritu (Ralutin) with the crime of Rape by sexual assault penalized under Article 266-A(2) of the Revised Penal Code (RPC) in relation to Republic Act (R.A.) No. 7610. The accusatory portion of the Information states:

That on or about September 4, 2009 in the municipality of [REDACTED], province of Cagayan and within the jurisdiction of this Honorable Court, the said accused JOJIT RALUTIN y ESPIRITU, with lewd design and by the use of force, threat and intimidation, did, then and there willfully, unlawfully, feloniously and knowingly insert his fingers into the vagina of the complainant, “AAA”,<sup>5</sup> a minor child below seven years old against her will, thereby degrading, debasing and demeaning the intrinsic worth and

\* Petitioner Jojit E. Ralutin’s full name was also written as “Nicanor Jojit E. Ralutin” in the Court of Appeals Decision and Resolution and in some parts of the records.

<sup>1</sup> *Rollo*, pp. 11-27.

<sup>2</sup> *Id.* at 33-40. Penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court) with Associate Justices Japar B. Dimaampao (now a Member of this Court) and Manuel M. Barrios concurring.

<sup>3</sup> *Id.* at 43-44.

<sup>4</sup> *Id.* at 59-70. Penned by Judge Lyliha L. Abella-Aquino.

<sup>5</sup> Pursuant to Supreme Court Amended Administrative Circular No. 83-2015, the personal circumstances and other information which tend to establish or compromise the identity of the victim, including the names of her family members or relatives, and the *barangay* and town where the incidents occurred, are withheld. The names of the victim and her family members or relatives are replaced with fictitious initials. Likewise, the real name of the accused-appellant is replaced with fictitious initials by reason of his relationship to the minor victim.

dignity of the herein complainant as a human being, prejudicial to her physical growth, psychological, and intellectual development.

Contrary to law.<sup>6</sup>

Ralutin pleaded not guilty during his arraignment on February 12, 2010. Trial on the merits ensued.

The facts of this case and the parties' respective arguments were summarized by the CA as follows:

The evidence of the prosecution shows that on 04 September 2009, AAA, then four years of age went to the house of accused-appellant to play with BBB, the daughter of accused-appellant. AAA and BBB played outside of the said house, while the wife of accused-appellant remained inside, taking care of their newborn baby.

While playing outside, accused-appellant pulled the hand of AAA and brought her to the bathroom. Therein, he removed AAA's short pants and inserted his fingers into the vagina of AAA. With this, AAA cried and accused-appellant warned her that if she would shout, accused-appellant would hack her vagina. After satisfying his lust, accused-appellant put AAA's short pants back and let her go back home.

At home, the mother of AAA told her to have a shower before going to bed. It was her father who washed her in the shower and afterwards her mother changed her clothes. When the mother of AAA removed her panty, she saw blood and asked what happened to her vagina. In response, AAA told her mother that she was brought by accused-appellant to the bathroom and therein accused-appellant inserted his fingers into AAA's vagina.

The following day, AAA was brought by her mother to a hospital for medical examination. The medical examination revealed that there was an incomplete, fresh, hymenal laceration at [the] 2 o'clock and 4 o'clock positions, and that there was no active bleeding at the time of examination. At the hospital, the mother of AAA was also advised to blotter the incident at the police station, which she did at the [REDACTED] Police Station. Afterwards, accused-appellant was charged with the crime of rape punishable under the Revised Penal Code in relation to R.A. 7610.

On the part of the defense, accused-appellant denied the charges hurled against him stating that he and the family of AAA are neighbors, with their houses only a few meters apart, and with [his] daughter and AAA being playmates. He narrated that on 04 September 2009, his only interaction with AAA was when he approached her asking where she came from, as he noticed her gasping for breath, to which AAA responded that she came from the house of her grandmother. Accused-appellant likewise stated that he was inside their house with his wife, taking care of their newborn baby and with his father and mother in law near them. On said day, when he noticed that it was becoming cloudy and sensing that a heavy

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<sup>6</sup> Id. at 59.

downpour of rain was forthcoming, his wife advised AAA to go home, which the latter readily did.<sup>7</sup>

### The RTC Ruling

The RTC rendered a Judgment<sup>8</sup> dated March 12, 2017 convicting Ralutin of rape by sexual assault of a minor:

**ACCORDINGLY**, accused **JOJIT RALUTIN y ESPIRITU** is hereby found **GUILTY** beyond reasonable doubt for the crime of Rape through Sexual Assault defined and penalized under Article 266(A) in relation to Republic Act No. 7610.

The accused is hereby sentenced to suffer the indeterminate penalty of twelve (12) years, ten (10) months and twenty-one (21) days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal*, as maximum. He is likewise ordered to pay the amount of ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages.

#### SO ORDERED.<sup>9</sup>

The RTC concluded that despite AAA's tender age of four years when she appeared in court, her testimony was clear and consistent in identifying Ralutin as the perpetrator who inserted his two fingers inside her vagina.<sup>10</sup> Ralutin's defenses of denial and alibi were inherently weak and unreliable, and cannot prevail over AAA's positive and categorical testimony. There was no showing of any ill motive on the part of AAA or the prosecution witnesses to falsely accuse Ralutin of such a crime.<sup>11</sup>

Ralutin's argument that the commission of the crime was not possible because there were several people in their house was also denied. The RTC held that he could not possibly claim that everyone's attention was on him and AAA the entire time. It likewise recognized that lust respects neither time nor place. Rape has therefore been committed even in places where people congregate.<sup>12</sup>

Aggrieved, Ralutin appealed the decision.

Ralutin filed a Brief for the Accused-Appellant<sup>13</sup> arguing that the RTC gravely erred in convicting him based on the prosecution witnesses' incredible testimonies. He alleged that AAA's testimony was contrary to human

<sup>7</sup> Id. at 34-35.

<sup>8</sup> Id. at 59-70.

<sup>9</sup> Id. at 70.

<sup>10</sup> Id. at 64.

<sup>11</sup> Id. at 68.

<sup>12</sup> Id. at 65.

<sup>13</sup> Id. at 46-58.

experience and inconsistent with the testimonies of other prosecution witnesses. For instance, AAA testified that Ralutin pulled her by the hand and brought her inside the bathroom where she was sexually assaulted. However, this could not have been possible since MMM, AAA's mother, claimed that she watched AAA play with BBB that afternoon.<sup>14</sup>

Further, Ralutin's denial was corroborated in all material points by the other defense witnesses. The defense witnesses' testimonies proved that AAA was playing with BBB the entire time and that Ralutin was taking care of his newborn child. His wife, sister-in-law, and Lovelyn G. Mabunga, a relative of Ralutin, all testified that they did not witness any untoward incident that happened between him and AAA that day.<sup>15</sup>

The State, represented by the Office of the Solicitor General, filed a Brief for the Appellee.<sup>16</sup> It was asserted that the RTC did not commit any reversible error in convicting Ralutin. Its finding that AAA was a credible witness is consistent with the general rule that testimonies of rape victims who are young or of tender age are credible since youth and immaturity are badges of truth and sincerity.<sup>17</sup> Also, AAA's testimony was corroborated by medical findings which cannot be ignored. It is recognized that "physical evidence is of the highest order and speaks more eloquently than a hundred witnesses."<sup>18</sup>

### The CA Ruling

The CA rendered its Decision<sup>19</sup> dated May 31, 2018 denying Ralutin's appeal and sustaining his conviction:

**WHEREFORE**, the instant appeal is DENIED. The Decision dated 12 March 2017 rendered by the Regional Trial Court, Branch 4 of [REDACTED] in Crim. Case No. 13246 is affirmed.

**SO ORDERED.**<sup>20</sup>

The CA affirmed the RTC's ruling that AAA's testimony was credible and sufficient to support Ralutin's conviction. It noted that by the nature of the crime of rape, a conviction may be based solely on the victim's lone and uncorroborated testimony provided it is clear, convincing, and consistent with human nature. It also gave weight to the factual findings of the RTC and its calibration of the witnesses' testimonies since it was in the best position to observe their behavior and demeanor in court.<sup>21</sup>

<sup>14</sup> Id. at 54.

<sup>15</sup> Id. at 55.

<sup>16</sup> Id. at 71-82.

<sup>17</sup> Id. at 78.

<sup>18</sup> Id. at 79.

<sup>19</sup> Id. at 33-40.

<sup>20</sup> Id. at 40.

<sup>21</sup> Id. at 38.

Ralutin filed a motion for reconsideration<sup>22</sup> of the decision, to which the State filed a comment.<sup>23</sup> The CA denied this motion in a Resolution<sup>24</sup> dated October 24, 2018.

Hence, the instant petition.

### **The Parties' Arguments**

Ralutin in his petition<sup>25</sup> maintains that the prosecution failed to prove his guilt beyond reasonable doubt considering that AAA and MMM's testimonies were incredible and inconsistent with each other.

First, their testimonies differed on how AAA allegedly told MMM about what Ralutin did to her. AAA testified that she felt pain in her vagina after her bath which prompted her to tell MMM what happened. On the other hand, MMM alleged in the complaint-affidavit she executed that AAA told her about the incident after she noticed blood from her vagina and asked what had happened.

Second, their testimonies differed on how Ralutin allegedly brought AAA to the bathroom where the incident occurred. AAA testified that Ralutin pulled her by the hand to the bathroom.<sup>26</sup> This is contrary to MMM's allegation in the complaint-affidavit that Ralutin carried AAA to the bathroom.

Third, AAA testified that Ralutin inserted two fingers inside her vagina. However, she contradicted this statement on cross-examination when she said that "a finger" was inserted in her vagina. The complaint-affidavit executed by MMM also alleged that it was merely "a finger" that was inserted and not two fingers.

Ralutin likewise argued that AAA's actions after the alleged rape are telling. Based on her testimony, she casually went home after the incident because she was sleepy. She did not even cry upon seeing her parents at home. It is unbelievable that a child would not break into tears upon seeing her parents if she was truly sexually violated.

Lastly, MMM alleged that she was watching over AAA and BBB while they were playing. She failed to explain how Ralutin could have separated the playmates and commit the crime without anyone noticing or reacting. The bathroom where the incident supposedly happened was near where MMM

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<sup>22</sup> Id. at 85-91.

<sup>23</sup> Id. at 113-129.

<sup>24</sup> Id. at 43-44.

<sup>25</sup> Id. at 11-27.

<sup>26</sup> Id. at 20-21.

was selling fishballs. It would have been absurd for him to commit the act there and risk getting caught.

The State timely filed a Comment<sup>27</sup> in response to the petition. It argued that only errors of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court. Ralutin's arguments require the re-evaluation of the credibility of the prosecution witnesses which can no longer be done at this stage. Nevertheless, the alleged inconsistencies in AAA's testimony which he pointed out did not affect her credibility since these referred merely to incidental and collateral matters.

The prosecution was therefore able to prove Ralutin's guilt beyond reasonable doubt through AAA's categorical, straightforward, and unequivocal testimony. Her testimony as a child-victim is entitled to full weight and credit.

Ralutin filed a Reply<sup>28</sup> to the comment arguing that although the Supreme Court is generally not a trier of facts, this principle does not apply to exceptions such as this case when the RTC and the CA committed a misapprehension of facts.

### **Issue**

The issue is whether or not Ralutin is guilty beyond reasonable doubt for the crime charged.

### **Ruling of this Court**

The petition is denied.

Ralutin primarily assails AAA's credibility as a witness and asks this Court to review the concurrent factual findings of the RTC and the CA.

It bears stressing at the outset that this Court is not a trier of facts. The factual findings of the RTC, especially when affirmed by the CA, are entitled to great weight and respect, and are conclusive absent any arbitrariness or oversight. It is settled that the weighing of evidence and evaluation of the credibility of witnesses is best left to the trial court. This is because it is in the best position to do so having heard the witnesses first-hand and observed their deportment during trial.<sup>29</sup>

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<sup>27</sup> Id. at 113-129.

<sup>28</sup> Id. at 138-146.

<sup>29</sup> *BBB v. People*, G.R. No. 249307, August 27, 2020.

After careful review of the records of this case, the Court finds no compelling reason to disturb the factual findings of the RTC and the CA. On this ground alone, the petition should be dismissed outright.

It must also be emphasized that the testimony of AAA, who was only four years old at the time she testified, is entitled to full weight and credence considering that her youth and immaturity are undeniably badges of truth. This Court in *People v. Basmayor*<sup>30</sup> held that testimonies of rape victims who are young and immature deserve full credence since it is highly improbable that a girl of tender years would accuse any man of a crime so serious as rape if it were not true:

This Court has held time and again that testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being the subject of a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her. Youth and immaturity are generally badges of truth. It is highly improbable that a girl of tender years, one not yet exposed to the ways of the world, would impute to any man a crime so serious as rape if what she claims is not true.<sup>31</sup>  
(Citations omitted)

Nevertheless, the prosecution proved Ralutin's guilt beyond reasonable doubt.

Preliminarily, the nomenclature of the offense for which Ralutin was charged and convicted must be clarified. Ralutin was convicted by the RTC for the crime of rape by sexual assault. However, this Court has established that instead of rape by sexual assault, the proper crime charged should be Sexual Assault under Article 266(A)(2) of the RPC in relation to R.A. No. 7610.<sup>32</sup> Citing *People v. Tulagan*,<sup>33</sup> it was explained:

Considering the development of the crime of sexual assault from a mere "crime against chastity" in the form of acts of lasciviousness to a "crime against persons" akin to rape, as well as the rulings in *Dimakuta* and *Caoili*, **We hold that if the acts constituting sexual assault are committed against a victim under 12 years of age or is demented, the nomenclature of the offense should now be "Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5(b) of R.A. No. 7610"** and no longer "Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5(b) of R.A. No. 7610," because sexual assault as a form of acts of lasciviousness is no longer covered by Article 336 but by Article 266-A(2) of the RPC, as amended by R.A. No. 8353. Nevertheless, the imposable penalty is still *reclusion temporal* in its

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<sup>30</sup> 598 Phil. 194 (2009).

<sup>31</sup> Id. at 208.

<sup>32</sup> *People v. HHH*, G.R. No. 248245, August 26, 2020.

<sup>33</sup> G.R. No. 227363, March 12, 2019.

medium period, and not *prision mayor*. (Emphasis and underscoring supplied)

Specifically in this case, the crime should be denominated as qualified sexual assault considering that AAA was below seven years old which is a qualifying circumstance under Article 266(B)(5) of the RPC.

In this regard, Article 266(A)(2) of the RPC defines rape by sexual assault as follows:

Article 266-A. *Rape: When And How Committed*. - Rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2) **By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.** (Emphasis and underscoring supplied)

When the victim is a minor under 12 years old, the crime committed is sexual assault punishable by the penalty in Section 5(b) of R.A. No. 7610:

Section 5. *Child Prostitution and Other Sexual Abuse*. - Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

X X X X

(b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period[.]

Based on the foregoing, the following elements of the crime must be proved:

- (1) That the offender commits an act of sexual assault;
- (2) That the act of sexual assault is committed by any of the following means:
  - (a) By inserting his penis into another person's mouth or anal orifice; or
  - (b) **By inserting any instrument or object into the genital or anal orifice of another person;**
- (3) That the act of sexual assault is accomplished under any of the following circumstances:
  - (a) By using force and intimidation;
  - (b) When the woman is deprived of reason or otherwise unconscious; or
  - (c) By means of fraudulent machination or grave abuse of authority; or
  - (d) **When the woman is under 12 years of age or demented.**<sup>34</sup>  
(Emphasis and underscoring supplied; citation omitted)

In this case, AAA gave a clear, straightforward, and credible narration of how Ralutin sexually assaulted her by pulling her into the bathroom where he took off her short pants and inserted two fingers inside her vagina. AAA testified:

Q: Do you still go to the house of BBB?

A: No more sir.

Q: Why?

A: Jojit might again do what he did to my vagina before sir.

Q: What did Jojit do to your vagina?

A: He inserted his two fingers on my vagina sir. (the child showed two fingers)

Q: Will you please show to us how Jojit inserted his fingers into your vagina?

A: Like this sir. (the child stood up on the chair and demonstrated how the accused inserted his fingers into her vagina)

Q: Where did Jojit inserted his fingers into your vagina?

A: In the bathroom sir.<sup>35</sup>

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<sup>34</sup> *People v. Bagsic*, 822 Phil. 784, 800 (2017).

<sup>35</sup> *Rollo*, p. 38.

AAA's testimony was further supported by the findings from her medical examination conducted the day after the incident on September 5, 2009. Dr. Felisa Rafael who examined AAA testified that she saw redness in her posterior fourchette and fresh hymenal lacerations at the 2 o'clock and 4 o'clock positions which could have been caused by trauma from a foreign body.

Verily, it is established that the credible testimony of the victim in rape cases, especially when substantiated by medical findings, is sufficient to support a conviction.<sup>36</sup>

Lastly, Ralutin's argument that AAA's reaction and actions after the rape were telling and belied her position is untenable. It has been recognized that rape victims react differently, *viz.*:

Rape victims react differently. Some may offer strong resistance while others may be too intimidated to offer any resistance at all. There is no standard form of reaction for a woman when facing a shocking and horrifying experience such as a sexual assault. The workings of the human mind placed under emotional stress are unpredictable. People react differently - some may shout, some may faint, and some may be shocked into insensibility, while others may openly welcome the intrusion. But any of these reactions does not impair the credibility of a rape victim. Additionally, failure to physically resist the attack does not detract from the established fact that a reprehensible act was done to a child-woman by her own biological father. Lastly, failure to shout or offer tenuous resistance does not make voluntary the victim's submission to the criminal acts of the accused.

Indeed, just because AAA or BBB did not offer tenacious resistance nor even shout whenever their father sexually ravished them did not make them less credible as witnesses.<sup>37</sup> (Citation omitted)

Hence, the fact alone that AAA did not break down into tears or act in the way Ralutin claimed a normal child would cannot be taken against her and used to assail her credibility. She had just experienced a traumatic and harrowing experience, and was undeniably under a lot of stress and confusion in view of her tender years. There is no standard reaction to such an experience with which to evaluate her. Regardless, the Court observes that AAA's actions in response to the sexual assault consisted of crying and informing her parents what had happened. These appear to be within the realm of natural and expected actions in response to such an experience.

All told, the prosecution proved all the elements of the crime of qualified sexual assault beyond reasonable doubt. Ralutin's defense of denial

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<sup>36</sup> *BBB v. People*, supra note 29; *People v. XXX*, G.R. No. 235662, July 24, 2019.

<sup>37</sup> *People v. XXX*, id.

is inherently weak and cannot prevail over AAA's clear, categorical, and positive testimony.

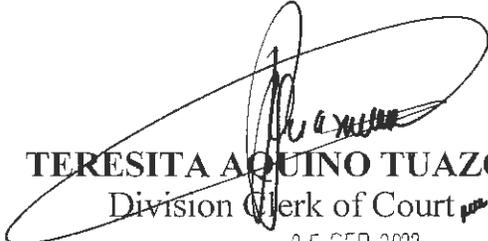
The imposable penalty is the heavier penalty provided under Section 5(b) of R.A. No. 7610 which is *reclusion temporal* in its medium period. The Court hereby modifies the imposed penalty in accordance with Section 1 of the Indeterminate Sentence Law in relation to Articles 64(1) and 65 of the RPC. Since there is no aggravating or mitigating circumstances, Ralutin is sentenced to suffer the indeterminate penalty of thirteen (13) years, nine (9) months, and ten (10) days of *reclusion temporal*, as minimum, to sixteen (16) years, five (5) months, and ten (10) days of *reclusion temporal*, as maximum.

The Court also modifies the monetary damages awarded. The awards of civil indemnity, moral damages, and exemplary damages are each increased from ₱30,000.00 to ₱50,000.00.<sup>38</sup>

**WHEREFORE**, premises considered, the petition for review on *certiorari* is **DENIED**. The Decision dated May 31, 2018 and the Resolution dated October 24, 2018 of the Court of Appeals in CA-G.R. CR No. 39931 are **AFFIRMED**. Petitioner Jojit Ralutin y Espiritu is **GUILTY** beyond reasonable doubt of the crime of Qualified Sexual Assault under Article 266(A)(2) of the Revised Penal Code in relation to Republic Act No. 7610, against AAA. He is sentenced to suffer the indeterminate penalty of thirteen (13) years, nine (9) months, and ten (10) days of *reclusion temporal*, as minimum, to sixteen (16) years, five (5) months, and ten (10) days of *reclusion temporal*, as maximum. He is also **ORDERED** to pay the victim, AAA, civil indemnity in the amount of ₱50,000.00, moral damages in the amount of ₱50,000.00, and exemplary damages in the amount of ₱50,000.00. All amounts awarded shall earn interest at the rate of 6% *per annum* from the date of finality of this judgment until fully paid.

**SO ORDERED.**" (Lazaro-Javier, J., designated additional Member per Raffle dated November 15, 2021; Dimaampao, J., no part.)

By authority of the Court:

  
**TERESITA AQUINO TUAZON**  
Division Clerk of Court  
05 SEP 2022

<sup>38</sup> *People v. HHH*, supra note 30.

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 4 [Family Court]  
3500 Tuguegarao City, Cagayan  
(Crim. Case No. 13246)

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