

AMELIA A. CORTE, OLYMPIA	X	
C. DYAS, and CHARLES L.		
DYAS, as Executrices and	X	
Executor of the Estate of		
John Arthur Corte, deceased,	X	IN THE CIRCUIT COURT OF
Plaintiffs,	X	BALDWIN COUNTY, ALABAMA
vs.	X	AT LAW
CORTE REALTY COMPANY, INC.	X	CASE NO. 8471
and A. I. CORTE, jointly and		
severally,	X	
Defendants.	X	

DEMURRER TO PETITION

Comes now the Defendant, Corte Realty Company, Inc., by its attorneys and demurs to the petition heretofore filed against it and to each paragraph or section thereof, separately and severally, and assigns the following separate and several grounds in support thereof:

1. The petition fails to allege facts which show that the petitioners have a right to appraise the lands and timber of this Defendant.
2. The petition fails to allege facts showing a duty on the part of this Defendant to permit the petitioners to appraise the lands and timber of Corte Realty Company, Inc.
3. The petition fails to allege facts clearly showing a legal duty and authority on the part of this Defendant.
4. The petition fails to allege that there has been any demand on any officer with authority to permit the petitioners to appraise the lands and timber of this Defendant.
5. The petition is uncertain and indefinite.
6. The petition fails to allege with sufficient certainty and definiteness the right of the petitioners to appraise the lands and timber of this Defendant.

7. The petition fails to allege with sufficient certainty and definiteness a duty on the part of this Defendant to permit the petitioners to appraise the lands and timber of this Defendant.

8. The allegations of the petition are mere conclusions of the pleaders.

9. The petition fails to allege a proper demand by the petitioners addressed to an officer of this Defendant with authority in the premises and a refusal of that officer to comply with such demand.

Respectfully submitted,

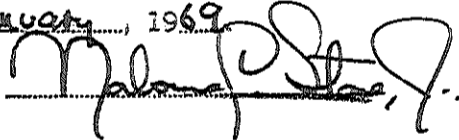
CHASON, STONE & CHASON

By: 

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 30 day

of January, 1969



**FILED**

JAN 30 1969

**ALICE J. DUCK** CLERK  
REGISTER

ORIGINAL

STATE OF ALABAMA §  
\*  
BALDWIN COUNTY §

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to serve a copy of the fore-  
going petition and alternative writ of mandamus on Corte Realty  
Company, Inc., and A. I. Corte.

WITNESS my hand this 16th day of December, 1968.

  
\_\_\_\_\_

Clerk of the Circuit Court of  
Baldwin County, Alabama

AMELIA A. CORTE, OLYMPIA : IN THE CIRCUIT COURT OF  
 C. DYAS and CHARLES L. :  
 DYAS, as Executrices and : BALDWIN COUNTY, ALABAMA  
 Executor of the Estate of :  
 John Arthur Corte, deceased, : AT LAW  
 Plaintiffs, : CASE NO. 8471  
 vs. :  
 CORTE REALTY COMPANY, INC. :  
 and A. I. CORTE, jointly and :  
 severally, :  
 Defendants. :

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

1. Your Petitioners respectfully represent and show unto the court that they are each over the age of twenty-one (21) years and have been appointed by the Probate Court of Baldwin County, Alabama, as Executrices and Executor, respectively, under the Last Will and Testament of John Arthur Corte, deceased, which appointment is now in force and effect.

The defendant, Corte Realty Company, Inc., is an Alabama corporation with its principal place of business located in Loxley, Baldwin County, Alabama. The defendant, A. I. Corte, is over the age of twenty-one (21) years and a resident of Baldwin County, Alabama.

2. Your Petitioners are the owners of 11 3/7 shares of the common stock of Corte Realty Company, Inc., which represents one-fifth ownership of said corporation, and said plaintiffs, through their predecessor in title, John Arthur Corte, have owned such stock for more than six months immediately preceding the filing of this petition.

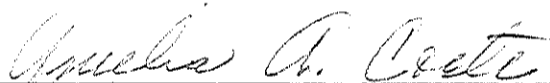
3. On October 10, 1968, the plaintiffs made written demand on Corte Realty Company, Inc. for the right to have a competent real estate appraiser appraise the real property of Corte Realty Company, Inc. and a competent timber cruiser

to make a timber cruise of the timber growing on the real property of Corte Realty Company, Inc., a copy of which letter is attached hereto and marked Exhibit "A". The assets of Corte Realty Company, Inc. consist primarily of real property, and the books of said corporation do not reflect the value of the real property owned by said corporation. The plaintiffs desire to know the true value of the stock which they own in Corte Realty Company, Inc. and the only way they have of ascertaining the same is by having a competent real estate appraiser appraise said land and a timber cruiser cruise the timber on said land.

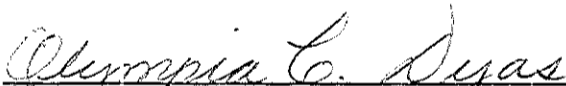
4. Plaintiffs allege that said letter which they sent to Corte Realty Company, Inc. was answered by Mr. Norborne C. Stone, Jr., attorney of Bay Minette, Alabama, on October 16, 1968, in which he agreed to allow the plaintiffs to come on the lands of Corte Realty Company, Inc. and appraise them and allow the timber cruiser to come on said Corte Realty Company, Inc. lands to cruise the timber, a copy of which letter is attached hereto marked Exhibit "B". After having received said letter, plaintiffs proceeded to have Pomeroy and McGowin send their agents, servants, and employees onto the land of Corte Realty Company, Inc. to run a timber cruise, at which time they were stopped, cursed, and generally abused and prohibited from proceeding by A. I. Corte, President of Corte Realty Company, Inc. Mr. Norborne Stone then contacted the attorneys for plaintiffs and advised that his letter of October 16, 1968, was in error and that the corporation would not allow a competent real estate appraiser or a timber cruiser to come on the lands of said Corte Realty Company, Inc.

WHEREFORE, the premises considered, the plaintiffs pray that your Honor will grant an order for the issuance of an

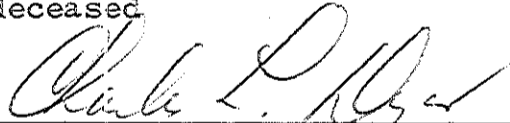
alternative writ of mandamus commanding and directing the said Corte Realty Company, Inc. to forthwith and immediately allow the Petitioners or their servants, agents or employees, to come on the lands of Corte Realty Company, Inc. and appraise said real property and cruise said timber on said real property for the purpose of showing the true value of the plaintiffs' stock in Corte Realty Company, Inc. or to appear before this court on some date to be named in said writ and show cause, if any there be, why a pre-emptory writ of mandamus should not issue requiring the said defendants to allow the plaintiffs, their agents, servants or employees, to come on the lands of the said Corte Realty Company, Inc. to appraise said real property and cruise said timber on the lands of Corte Realty Company, Inc., and plaintiffs pray for any other or further relief to which they may be entitled in the premises.



Amelia A. Corte  
Amelia A. Corte, as Executrix of  
the Estate of John Arthur Corte,  
deceased



Olympia C. Dyas  
Olympia C. Dyas, as Executrix of  
the Estate of John Arthur Corte,  
deceased



Charles L. Dyas  
Charles L. Dyas, as Executor of  
the Estate of John Arthur Corte,  
deceased

STATE OF ALABAMA :

COUNTY OF MOBILE :

Before me, the undersigned authority in and for said county and state, personally appeared Amelia A. Corte, as Executrix of the Estate of John Arthur Corte, deceased, who is known to me, who, being by me first duly sworn, doth on oath depose and say that she is one of the petitioners in the above entitled cause and has knowledge of the facts set out in said petition, and that the facts therein set out are true and correct.

Amelia A. Corte  
Amelia A. Corte

Subscribed and sworn to before me,

this 16 day of November, 1968.

Mark W. [Signature]  
Notary Public, Mobile County, Alabama

STATE OF ALABAMA AT LARGE  
My Commission Will Expire  
March 7, 1972

STATE OF ALABAMA :  
COUNTY OF MOBILE :

Before me, the undersigned authority in and for said county and state, personally appeared Olympia C. Dyas, as Executrix of the Estate of John Arthur Corte, deceased, who is known to me, who, being by me first duly sworn, doth on oath depose and say that she is one of the petitioners in the above entitled cause and has knowledge of the facts set out in said petition, and that the facts therein set out are true and correct.

Olympia C. Dyas  
Olympia C. Dyas

Subscribed and sworn to before me,

this 16 day of November, 1968.

Mark W. [Signature]  
Notary Public, Mobile County, Alabama

STATE OF ALABAMA AT LARGE  
My Commission Will Expire  
March 7, 1972

NOV 16 1968

NOTARY PUBLIC

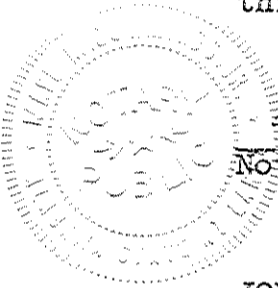
STATE OF ALABAMA :

COUNTY OF MOBILE :

Before me, the undersigned authority in and for said county and state, personally appeared Charles L. Dyas, as Executor of the Estate of John Arthur Corte, deceased, who is known to me, who, being by me first duly sworn, doth on oath depose and say that he is one of the petitioners in the above entitled cause and has knowledge of the facts set out in said petition, and that the facts therein set out are true and correct.

*Charles L. Dyas*  
\_\_\_\_\_  
Charles L. Dyas

Subscribed and sworn to before me,  
this 16 day of November, 1968.



*Walter M. ...*  
\_\_\_\_\_  
Notary Public, ~~Mobile County, Alabama~~

STATE OF ALABAMA AT LARGE  
My Commission Will Expire  
March 7, 1972

JOHNSTON, JOHNSTON & NETTLES

By *Sam M. Johnston, Jr.*  
\_\_\_\_\_  
Sam M. Johnston, Jr.

*J. B. Blackburn*  
\_\_\_\_\_  
J. B. Blackburn  
Attorneys for Plaintiffs

TO THE CLERK OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

The foregoing Petition having been presented to and considered by me, it is ordered that an ALTERNATIVE WRIT OF MANDAMUS, as prayed in the Bill, issue to the Defendants and to each of them and be made returnable before me on the 8<sup>th</sup> day of January, ~~1968~~ <sup>1969</sup> at the Circuit Court of Baldwin County, Alabama, at 10:00 A.M. o'clock, in the County Court House at Bay Minette, Alabama. Dated this \_\_\_\_\_ day of 16<sup>th</sup>, 1968.

*Joyce J. MacArthur*  
\_\_\_\_\_  
JUDGE

VOL 61 PAGE 563



EXHIBIT "A"

October 10, 1968

Corte Realty Company, Inc.,  
Its Officers and Directors  
Loxley, Alabama

Gentlemen:

John Arthur Corte, at the time of his death, owned one-fifth of the outstanding capital stock in Corte Realty Company, Inc. The undersigned, as personal representatives of the Estate of John Arthur Corte, deceased, have employed a competent real estate appraiser to appraise the real property of Corte Realty Company, Inc., and a competent timber cruiser to make a timber cruise of the timber growing on the real property of Corte Realty Company, Inc., and we hereby make written demand upon you to permit them to enter upon the lands of Corte Realty Company, Inc. for the purpose of appraising the land to determine its value and a timber cruise of the timber situated thereon.

Please let us have a written reply granting or refusing this request not later than 12:00 noon on the 14th day of October, 1968, addressed to us at P. O. Box 550, Mobile, Alabama 36601.

Yours very truly,

s/ Amelia A. Corte

s/ Olympia C. Dyas

s/ Charles L. Dyas

As Executor and Executrices of  
the Estate of John Arthur Corte,  
deceased

CHASON, STONE & CHASON  
ATTORNEYS AT LAW  
P. O. BOX 120  
BAY MINETTE, ALABAMA 36507

EXHIBIT "B"

JOHN CHASON  
NORBORNE C. STONE, JR.  
JOHN EARLE CHASON

TELEPHONE 937-2191

October 16, 1968

Honorable Sam M. Johnston, Jr.  
Attorney at Law  
P. O. Box 550  
Mobile, Alabama 36601

Dear Mr. Johnston:            Re: John Arthur Corte, Deceased,  
Estate of.

This letter is in reply to a letter received from the Executor and Executrices of the Estate of John Arthur Corte, Deceased, by Corte Realty Company, Inc. under date of October 10, 1968 and is being forwarded to you as attorney for said Estate by this firm as attorneys for Corte Realty Company, Inc.

In your letter you requested that a reply be received not later than 12 o'clock noon on the 14th day of October, 1968 and in view of the fact that the letter was not received in time to confer with our clients and frame a reply within the deadline set in your letter, we have not been able to reply before today.

Please be informed that Corte Realty Company has no objection to the personal representatives of the Estate of John Arthur Corte, Deceased, examining the books, papers, records, books of account, minutes, records of stockholders meetings, and all other records of the corporation and such books, papers, etc. will be available to the personal representatives in the Courthouse in Bay Minette, Alabama, at such time as the personal representatives so desire. In this regard, we would like to state that these books and records have, at all times, been available to the personal representatives both in the office of the corporation in Loxley, Alabama and in the office of the Certified Public Accountant in Mobile,

Honorable Sam M. Johnston, Jr.  
October 16, 1968  
Page 2

Alabama and we assume that you have made the personal representatives aware of this fact. Please let us know when the personal representatives would like to have books available in the Courthouse in Bay Minette.

In reply to the request received by Corte Realty Company, Inc. with respect to the personal representatives employment of appraisers and timber cruisers and their request that such appraisers and timber cruisers be permitted to go on the property of Corte Realty Company for the purpose of appraising the land, please be advised that Corte Realty Company does not object to such appraisal in the light of all of the circumstances surrounding the questions now existing between the Estate of John Arthur Corte, Deceased, and the surviving stockholders and in the light of the agreement which has existed between the members of the family of John Arthur Corte for the past many years, and the expressed desire and wish as set forth in the Will of John Arthur Corte, Deceased. In this regard, the surviving stockholders of Corte Realty Company have submitted to the Estate of their late brother their election to exercise the option which he gave them in his Will and it is their position (and in this we concur) that the amount set forth in the appraisal and option price heretofore submitted to the personal representatives of the Estate of John Arthur Corte, Deceased, is binding upon such personal representatives and the heirs and legatees of John Arthur Corte, Deceased.

We shall expect to hear from you with respect to when you want to examine the books of Corte Realty Company, Inc.

Sincerely,

CHASON, STONE & CHASON

By: 

NCS:js  
cc: Corte Realty Company, Inc.

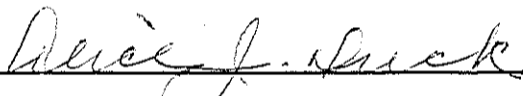
Mr. J. B. Blackburn VOL 61 PAGE 566

TO CORTE REALTY COMPANY, INC., AND A. I. CORTE:

WHEREAS, Amelia A. Corte, Olympia C. Dyas, and Charles L. Dyas, as Executrices and Executor of the Estate of John Arthur Corte, deceased, have filed the foregoing petition for a writ of mandamus with the Clerk of the Circuit Court of Baldwin County, Alabama, and the Judge of the said court has ordered the issuance of the alternative writ so prayed for.

You and each of you are hereby commanded to permit the petitioners or plaintiffs to appraise the real property of Corte Realty Company, Inc., and cruise the timber on the said lands as prayed for in the said petition, or else to appear before the Circuit Court of Baldwin County, Alabama, at 10:00 o'clock A. M., on the 5<sup>th</sup> day of January, 1969, to show cause why you should not do so.

WITNESS my hand on this the 16th day of December, 1968.

  
\_\_\_\_\_  
Clerk of the Circuit Court of  
Baldwin County, Alabama

**ORIGINAL**

712 84771

**RECEIVED**  
DEC 16 1963  
TAYLOR WILKINS  
SHERIFF

Amelia A. Corste  
et als

Received 16<sup>th</sup> day of Dec. 1963  
and on 16<sup>th</sup> day of Dec. 1963  
I served a copy of the within 16<sup>th</sup>  
on Corste Realty Co. et als

By service on Corste Realty Co. et als

TAYLOR WILKINS, Sheriff  
By Robert Wilkins D. S.

Received 16<sup>th</sup> day of Dec. 1963  
and on 21 day of Dec. 1963

I served a copy of the within 16<sup>th</sup>  
on Corste Realty Co. et als

By service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff  
By Robert Wilkins D. S.

J. J. Taylor

Sheriff claims 80 miles at

Ten Cents per mile Total \$ 8.00

TAYLOR WILKINS, Sheriff  
BY Robert Wilkins

Corste Realty Co  
et als

W.B. Blackburn

AMELIA A. CORTE, OLYMPIA	X		
C. DYAS and CHARLES L.			
DYAS, as Executrices and	X		
Executor of the Estate			
of John Arthur Corte,	X	IN THE CIRCUIT COURT OF	
Deceased,			
	X		
Plaintiffs,			
	X	BALDWIN COUNTY, ALABAMA	
vs.	X		
	X	AT LAW	NO: 8471
CORTE REALTY COMPANY, INC.			
and A. I. CORTE, jointly	X		
and severally,			
	X		
Defendants.			
	X		

Comes now the Defendant, A. I. Corte, by his attorneys, in the above styled cause and for answer to the Petition heretofore filed against him, says as follows:

1. The Defendant admits the allegations of paragraph "1" of the Petition.

2. The Defendant denies the allegations of paragraph "2" of the Petition and for further answer thereto says that at the time of his death, John Arthur Corte was the owner of 11 3/7 shares of the common stock of Corte Realty Company, Inc. and that in and by the terms of his Last Will and Testament, he bequeathed the same in trust for the use and benefit of his widow, Amelia A. Corte and his daughter, Olympia C. Dyas, subject to an option in favor of this Defendant and Ferdinand A. Corte, Julio Corte and Adele Corte to purchase the same, all as particularly set forth in the Last Will and Testament of the said John Arthur Corte, Deceased, which is recorded in Will Record 10, at pages 233-43 in the Office of the Judge of Probate of Baldwin County, Alabama, and reference to which is hereby made for all of its terms and provisions. That the surviving brothers and sister of the said John Arthur Corte have heretofore exercised the option granted by said Will to purchase said shares of stock from the Plaintiffs, but the Plaintiffs

have failed and refused and continue to fail and refuse to recognize the validity of said option and to comply with the specific provisions of, and the instructions contained in, said Last Will and Testament. That said option was exercised and the rights under said Will asserted, on November 13, 1967 and a tender of the purchase price for said shares of stock was made on May 7, 1968. That the Plaintiffs, in their representative capacity, are not the owners of said shares of stock and in their individual capacity, are nothing more than beneficial owners of said shares of stock.

3. The Defendant denies the allegations of paragraph "3" of the Petition and demands strict proof thereof. For further answer thereto, the Defendant says that in and by the terms of the Last Will and Testament of John Arthur Corte, Deceased, the surviving stockholders, consisting of this Defendant, Julio Corte, Ferdinand A. Corte and Adele Corte, were vested with the right and privilege to fix and determine the reasonable value of said shares of stock and the value so determined would be binding upon the heirs and Executors of the said John Arthur Corte, Deceased. That said value has been determined by this Defendant and his brothers and sister but the Plaintiffs have failed and refused to abide by the decision of the surviving brothers and sister and have refused to abide by the specific provisions of the terms of the Last Will and Testament of the said John Arthur Corte, Deceased.

4. The Defendant admits the allegations of paragraph "4" of the Petition except wherein it is alleged that Norborne C. Stone, Jr. "agreed to allow the Plaintiffs to come on the lands of Corte Realty Company, Inc. and appraise them and allow the timber cruiser to come on said Corte Realty Company, Inc. lands to cruise the timber".

And now having fully answered the Petition heretofore filed against him, this Defendant respectfully moves this Court to

dismiss the same and to discharge this Defendant from any further responsibility with respect to said Petition or the prayer contained therein.

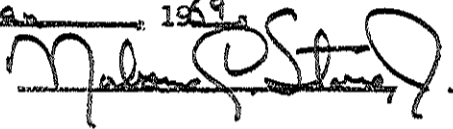
Respectfully submitted,

CHASON, STONE & CHASON

By:   
Attorneys for A. I. Corte

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 2 day of Jan, 1969.



FILED

JAN 8 1969

ALICE J. DUCK CLERK REGISTER



AMELIA A. CORTE, OLYMPIA	X		
C. DYAS and CHARLES L.	X		
DYAS, as Executrices and	X		
Executor of the Estate	X		
of John Arthur Corte,	X	IN THE CIRCUIT COURT OF	
Deceased,	X		
	X		
Plaintiffs,	X	BALDWIN COUNTY, ALABAMA	
	X		
vs.	X	AT LAW	NO; 8471
	X		
CORTE REALTY COMPANY, INC.	X		
and A. I. CORTE, jointly	X		
and severally,	X		
	X		
Defendants.	X		

Comes now the Defendant, Corte Realty Company, Inc., by its attorneys, and moves the Court to strike the Petition heretofore filed against it and assigns, separately and severally, the following separate and several grounds in support thereof:

1. The Petition fails to allege any facts which would entitle the Plaintiffs to the relief therein prayed for.
2. It affirmatively appears from the allegations of the Petition that the Petitioners have no right, title or interest in the lands therein referred to or the shares of stock therein referred to which would entitle them to the relief therein prayed for.
3. The allegations of the Petition are vague, indefinite and uncertain.

Respectfully submitted,

CHASON, STONE & CHASON

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 5 day

of Jan 1969

*Melanie Stone* VOL

By: *Melanie Stone*  
Attorneys for Corte Realty Company, Inc.

JAN 8 1969